

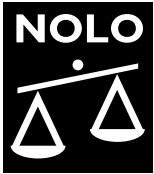
**2nd edition**

# **Fiancé & Marriage Visas**

**A Couple's Guide to  
U.S. Immigration**

**by Attorney Ilona M. Bray**





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**2nd edition**

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# Introduction

*"The marvel of all history is the patience with which men and women submit to burdens unnecessarily laid upon them by their governments."*

**William E. Borah,**  
**former U.S. Senator from Idaho**

**Y**ou'll notice I haven't started this book with a quote about love or marriage. It's not that I'm a cynic—it's just that falling in love is the easy part. Obtaining the right to live happily ever after in the United States is more complicated than even the most difficult courtship. That's because it involves more than just you, your beloved, your families, and friends. You will also be inviting the U.S. immigration authorities into your lives for as long as it takes to convince them that you are in love, want to be married, and are eligible to enter and live in the United States. And believe me, this is a lot more complicated than simply saying, "I do."

The popular perception is that U.S. citizenship comes along with an American spouse. The reality is quite different. There are dozens of forms, months and possibly years of legal and bureaucratic delays, and countless ways to make the process move faster or end with a resounding "no entry" from an immigration officer. Even after you convince the U.S. government to let you in, most often you'll only get temporary permission to marry or live in the United States. You'll have to wait a couple of years before you can get permanent residence—and even longer before you can apply to become a U.S. citizen.

I have had many clients arrive at my office after they started the application process with no preparation other than picking up the forms from the U.S.

Citizenship and Immigration Services (USCIS, formerly called the INS). They fled to a lawyer when the mountain of paperwork threatened to bury them. And there were the clients who didn't look before they leaped into the application process and found themselves denied or, worse, facing deportation.

None of these people had the benefit of materials that tell you, in plain English, the laws you need to understand and the way to apply for a visa or green card based on marriage. The goal of this book is to fill that gap. "Why a whole book?" you might ask. The answer is simple: Because I'm trying to make it possible for you to get through this complicated process without having to hire a lawyer. It would be a much shorter book if I told you to fill out the forms blindly, without explaining the legal implications or the "inside scoop" on how the USCIS or consular officer will view your case.

If there had been clear information available to them, many of my clients could have done without a lawyer and obtained a visa or green card on their own. I'm not antilawyer on principle, but I know that many would-be applicants cannot afford one or simply prefer not to use one. Having a lawyer is certainly not a required part of the immigration process. But the immigration bureaucracy has created an absurdly tangled system, in which reliable information is about as available as state secrets—and lawyers are, at the moment, the only people with some access to, or experience with, those secrets.

One of the ultimate ironies is that even if you get wrong advice from a member of the USCIS, you're still stuck with the consequences of having followed that advice. And the confusion accelerates every

time Congress tacks amendments onto the immigration laws—which it does lately with every shift in the electorate’s anti- and pro-immigrant sentiment. As a result, many immigrants end up having to hire lawyers for cases that, with information like the kind in this book, they could have handled on their own. That said, I haven’t covered every possible complication here—there are times when people really do need a lawyer’s help, and I try to alert readers to these times.

To write this book, I have drawn on my experience with hundreds of immigrant clients, and gathered stories from other lawyers. I’ve tried to anticipate a variety of complications that readers may encounter, so that their application process will go as smoothly as possible. When all is said and done, this process is just a lot of forms and paperwork, all used to show that two decent people are in love and deserve to live together in the United States.

A final and fun note: You’ll see as you go through this book that we’ve included graphics of birds, animals, landmarks, and more. These represent official symbols or known features from most of the 50 U.S. states. They’re meant for your enjoyment—and may give you a little introduction to the state where you’ll be making your new home.

## Icons Used in This Book

To aid you in using this book, I use the following icons:



This icon warns you of potential problems.



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This icon indicates when you should consider consulting an attorney or other expert.



This icon refers you to a further discussion of the topic somewhere else in this book.



This icon tells you where to go next if you’ve completed the steps just described.



This icon tells you that the form or checklist below is available on the CD-ROM at the back of this book.

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Every year, hundreds of thousands of foreign-born people become engaged or married to U.S. citizens and permanent residents. Just as no two romances are alike, none of these couples will have exactly the same immigration needs. Some will meet and marry overseas, then wish to move to the United States; some will meet in the United States and wish to marry and stay; and some will meet overseas and wish to come to the United States for the wedding. Each of these situations, and others, will require slightly different planning and procedures.

No matter what your situation, you have one thing in common with all the other fiancés and newlyweds (or even longtime spouses). Before you obtain the right to come to the United States, whether just to get married or to stay permanently, you will have to go through a lengthy process of submitting application forms and paperwork and meeting with government officials to prove your eligibility. The processes are not simple, but they are standard—meaning they can be done without a lawyer's help, if your case is straightforward and your marriage, or planned marriage, is for real.



**If you are or have ever been in deportation proceedings, you must see a lawyer.** If the proceedings aren't yet over or are on appeal, your entire

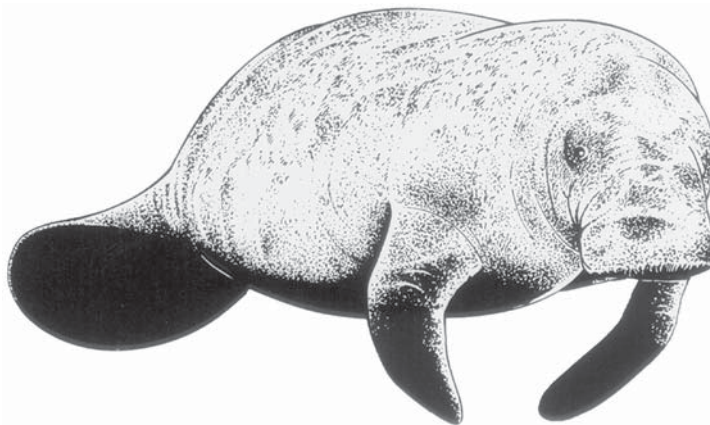
immigration situation is in the hands of the courts and you are not allowed to use the procedures described in this book. Even if the proceedings are over, you should ask a lawyer whether the outcome affects your current application.

This book will show you how to:

- decide whether you are eligible
- choose the proper visa and submit the correct paperwork
- gather all necessary documents and prepare for interviews with U.S. government officials
- create and maintain documentary proof that your marriage is real
- deal with difficult bureaucrats and delays
- get a work permit in the United States
- make it through your two-year “testing period” to get your green card
- keep and enjoy your permanent residence status, and
- know when you need professional legal help.



**Here comes the jargon.** We try to keep the technical vocabulary to a minimum in this book, but there are times when no other word but the technical one will do. To check on the meaning of terms like “citizen,” “permanent resident,” or “green card,” please see the Glossary at the end of the book.



**Florida**

State Marine Mammal: Manatee

## **“Visa” and “Green Card” Can Mean More Than One Thing**

We’re about to start using the words “visa” and “green card” a great deal. In a few situations, their meanings are distinct and narrow, but often they overlap or are the same.

Let’s start with the narrow meanings. A visa gives you the right to enter the United States. Physically, it usually appears as a stamp in your passport. When this book advises you to go to the consulate to pick up your visa, it means that you’ll be getting this stamp or an equivalent document that allows you to enter the United States.

“Green card” is a slang term. In the narrowest usage, it is the plastic photo identification card that you receive when you become a U.S. lawful permanent resident.

Now for the broader meanings. The word visa may also be used in situations involving immigrants who are already in the United States and won’t need an entry visa. That’s partly because someone in the deep dark offices of the State Department may have to allocate a visa number to these immigrants, though the immigrants may never even know it. When this book talks about your “visa eligibility” or “visa availability,” it’s not referring to the actual visa that you pick up overseas, but about the broader, theoretical visa that the State Department will allocate to you.

The term green card also takes on broader meanings at times. It’s often used, in this book and elsewhere, to refer to lawful permanent residence or lawful conditional residence. When this book talks about a “green card application” it is actually referring to one of the several application processes (Adjustment of Status or consular processing) that could lead to obtaining U.S. residence.

## **A. Who Should Use This Book**

You probably picked up this book because you are the fiancé or spouse of a U.S. citizen or permanent resident and you want to marry and/or live in the United States. But a wedding plan or marriage certificate does not automatically grant you the right to be in the United States. How you apply for permission to come to or live in the United States depends on several factors. These include where you live now, whether you are married yet, whom you will be marrying (a U.S. citizen or lawful permanent resident), and (if you are in the country already) whether you entered the United States legally or illegally.

Sections 1 and 2 below list the types of people who can use this book to find out whether they are eligible for a visa or green card; and if they are eligible, how to apply.

### **Green Cards Don’t Work Like Tourist Visas**

Don’t expect a green card to work as a frequent travel pass. A common misconception about green cards is that they allow you unlimited travel in and out of the United States without the hassle of reapplying for visas. The result of this confusion is the practice of overseas family members of U.S. citizens or residents who want to be able to pop in for impromptu visits—they sometimes apply for green cards. But if your plan is to maintain your primary home in another country, the U.S. government may eventually figure this out and cancel your green card. The legal term for this is that you abandoned your residency. You would have to start over and apply for another one.

If, for example, you’re married to a U.S. citizen or resident but plan to live in your home country for much of your early marriage, or to shuttle back and forth, you may want to wait until you’re really ready to settle in the United States to apply for your permanent resident status.

## 1. Foreign Nationals Living Overseas

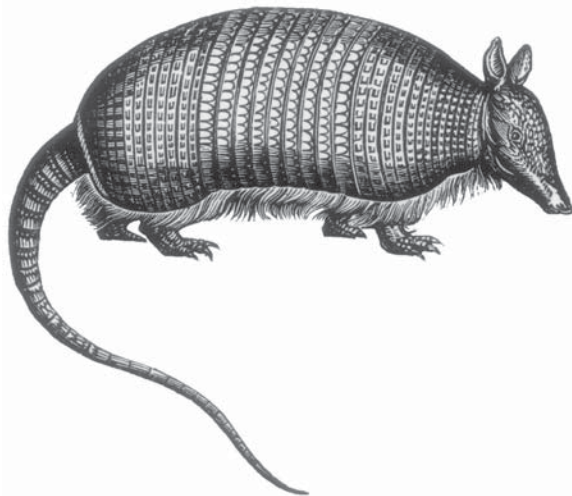
If you are living outside the United States and are a citizen of some other country, you can use this book if you are:

- engaged to marry a U.S. citizen
- engaged to marry a U.S. lawful permanent resident
- married to a U.S. citizen
- married to a U.S. lawful permanent resident.

## 2. Foreign Nationals in the U.S.

If you are living in the United States (or its territories) but are a citizen of some other country, you can use this book if you are:

- engaged to marry a U.S. citizen, regardless of whether your visa has expired or you entered the country illegally
- engaged to marry a U.S. lawful permanent resident, regardless of whether your visa has expired or you entered the country illegally
- married to a U.S. citizen, regardless of whether your visa has expired or you entered the country illegally
- married to a lawful permanent resident, regardless of whether your visa has expired or you entered the country illegally.



**Texas**

State Small Mammal: Armadillo



**If you do not fit into one of these categories, but want a visa or green card based on marriage, your case may be complicated and will require the help of a lawyer.** For example, the widows and children of U.S. citizens can still immigrate through the deceased U.S. citizen, but through an application process that is not covered in this book.

### How We Talk to “You”

Throughout this book, we refer to the immigrant as “you,” and the U.S. citizen or permanent resident as “your spouse” or “fiancé,” as appropriate. That’s to avoid using the corresponding legal terms “beneficiary” (the immigrant who will be getting the visa or green card) and “petitioner” (the U.S. citizen or lawful permanent resident who is sponsoring the immigrant) as much as possible. At times, however, we have no choice.

This doesn’t mean that applying for your fiancé visa and/or green card won’t be a joint process. You—the beneficiary—and your spouse or fiancé—the petitioner—will each have a role to play in successfully getting you the right to marry and/or live in the United States.

Also note that we spell fiancé with only one e, which technically only refers to male fiancés. This avoids using the awkward-looking “fiancé(e).” But unless we say otherwise, fiancé in this book refers to both men and women.

Both you and your spouse or fiancé should review and understand all of the paperwork and documents you submit. In fact, many couples find that it’s easiest if the U.S. citizen or resident half of the couple prepares most of the paperwork, even the forms that are sent to and signed by the immigrant. This is because most of the written material must be in English and must conform to the requirements of an American bureaucracy.



## B. Is a Fiancé or Marriage Visa the Best One for You?

Before we get too deep into the subject of this book, let's pause. You might be curious about whether there are alternate ways of getting a visa or green card—especially if you have read our early warnings about how complicated it is to get a visa or green card through marriage!

### 1. How Does Your Visa Option Compare to Others?

There are dozens of categories of visas and other immigration benefits for people wanting to visit or live in the United States. But none of them will get you a green card overnight or without significant effort. In fact, most experts would agree that if you are already engaged or married to a U.S. citizen or permanent resident, immigrating based on this marriage is likely to be your best bet. The eligibility criteria are reasonably straightforward and the waiting periods are generally better, or at least no worse, than for most other types of visas.

If you are married to a U.S. citizen, there is no waiting period or quota to delay your entry into the United States. You will be subject to the usual time period it takes to process your paperwork and for the government to make sure you are not excludable for any reason, such as criminal past or health problems. (See Chapter 2, Section A, for more on inadmissibility.)

Unfortunately, marriages to U.S. permanent residents don't result in such smooth sailing, immigration-wise. Spouses of permanent residents will probably have to spend a few years on a waiting list before their visa or green card becomes available to them. (See Chapter 2, Section A, for more on waiting periods.) However, spouses of permanent residents face shorter waits than many other family immigrant categories. For example, in early 2004, the waiting period for the spouse of a permanent resident was approximately five years. If the spouse also had a brother who was a U.S. citizen, she could also apply for a visa based on that sibling relationship, but the

waiting period for that category is an average of ten years.

The only categories of people who avoid the visa waiting list are those defined as immediate relatives, which include the spouses of U.S. citizens, the unmarried children of U.S. citizens, and the parents of an adult U.S. citizen (over 21). If you don't happen to be an immediate relative, then your potential green card through marriage to a lawful permanent resident is a fine option to have.

The spouse of a permanent resident might obtain a visa more quickly than waiting for a marriage-based visa if, for example, they:

- have a potential employer in the United States
- have parents or adult children who are U.S. citizens
- would be willing to invest \$500,000 or more in a U.S. business
- have lived in the United States continuously since January 1, 1972
- come from a country from which they can apply for the Diversity Visa (known as the visa lottery), or
- fear political persecution in their home country.

Any of these categories might get a person permission to enter or stay in the United States more quickly than they could as the spouse of a permanent resident. But none of them is an instant answer.



**If you fit into any of the categories above, you should consult an attorney.** Chapter 17 contains tips on finding a good lawyer.

### 2. Why Can't You Just Use a Tourist Visa?

Many fiancés and spouses immigrating from overseas wonder why they cannot simply use a tourist visa to enter the United States. They know they will spend a long time outside the United States waiting for their proper visa, while their fiancé or spouse is living inside the United States. But they also know that a tourist visa can be gotten in a few days. So why, they wonder, can't they just pick up a tourist visa, come to the United States, and then worry about the rest of the green card application process once they're together here?

There are two problems with this idea. First, if you pose as a tourist with the secret intention of staying in the United States, you will have committed visa fraud. Visitor visas, or indeed any temporary visas, are for people who intend to stay temporarily—and then leave. They are not for people who plan to marry and live happily ever after in the United States. If U.S. Citizenship and Immigration Services (USCIS, formerly called “INS”) chooses to make an issue of it, your misuse of a tourist visa could lead to your losing the right to obtain a marriage-based green card and most other types of visas.

USCIS will be especially suspicious if you get married within two months of entering the United States. Sometimes USCIS will turn a blind eye, or you may be able to convince them that when you entered the U.S. on a temporary visa you really planned a short stay (and only decided to marry after you arrived). If USCIS remains unconvinced, you can ask them to forgive your error, but obtaining such forgiveness (in legalese, a “waiver”) is not easy and not covered in this book.

**EXAMPLE:** Detlef enters the United States as a tourist, marries Sally (a U.S. citizen) a week later, and they apply for his green card in San Francisco. At their green card interview, the officer asks, “When did you decide to get married?” Detlef answers, “Oh, I asked Sally to marry me during a phone call last month, and when she said yes, I was so happy that I got a tourist visa, got on the next plane, and we were married in the Elvis Chapel in Las Vegas the following Monday.” This is an unfortunate answer, because it practically forces the immigration officer to notice that Detlef committed visa fraud.

**EXAMPLE:** Nigel enters the United States as a tourist, marries Ellen (a U.S. citizen) three months later and they apply for his green card in New York. At the green card interview the officer asks, “What was your intention when you entered the United States?” Nigel says, “Our relationship was going very well long-distance, so I decided to travel to the United States to see

Ellen in person. Frankly, it was also time for a vacation. A few weeks after I arrived, we realized we were really and truly in love. And when that feeling didn’t wear off, we decided to marry.” This answer has promise. Even if this couple was contemplating marriage before Nigel arrived, Nigel’s candid answer, plus the fact that they waited over two months to get married, makes clear that Nigel didn’t just use the tourist visa to get around the U.S. immigration laws.

The second problem is that if your U.S. fiancé or spouse is a permanent resident (not a citizen), you will, as mentioned above, have to wait for years until you are eligible for permanent residence or a green card. That means that if you come to the United States as a tourist and your visa runs out, you will be here illegally for all of those years of waiting. Living here illegally will cause many problems described in detail later on. For now, just keep in mind that it could ultimately make getting a green card extremely difficult.



**Still curious about other visas?** There are many types of visas and immigration benefits for temporary and permanent U.S. residence. Though in many cases they apply only to narrow categories of people, you might want to scan the summary provided in Appendix B. If you see any likely prospects, you can check out their advantages and disadvantages before continuing with the application covered by this book. You will find more detailed information on these visa categories in *U.S. Immigration Made Easy*, by Laurence A. Canter and Martha S. Siegel (Nolo).

## C. Using a Fake Marriage to Come to the U.S.

It is illegal for anyone to get married solely for the purpose of getting, or helping someone to get, permanent residence in the United States. There are stiff fines and possible jail terms for people who are convicted of this crime. But we would be foolish not to address the fact that many people attempt to fake a marriage to obtain a green card.





If you are getting married for legitimate reasons, you can skip this section and continue reading at Section D.

If you are considering a fake, or sham, marriage, you probably already know that what you are planning is illegal. You should also know that this book is written with the assumption that you are marrying for love, not for a green card. We are not going to give you any special tips on making a fraudulent marriage look real. However, we will outline the risks for you.

## 1. What Is a Sham Marriage?

A sham marriage is one that is entered into in order to get around the U.S. immigration laws. For a marriage to be valid under the law, it is not enough that the couple had a real marriage ceremony and got all the right governmental stamps on their marriage certificate. They have to intend to live in a real marital relationship following the marriage ceremony—and prove their intention through their actions. If the couple doesn't intend to establish a life together, their marriage is a sham. (For more on what USCIS considers to be a real or bona fide marital relationship for purposes of green card eligibility, see Chapter 2, Section B.)

## 2. Will You Get Caught?

Detecting marriage frauds is a top priority for USCIS. USCIS officers still quote a survey from the 1980s which found that up to 30% of marriages between aliens and U.S. citizens are suspect. That survey has since been shown to be deeply flawed, but its legacy lives on.

In order to detect frauds, the immigration authorities require a lot of proof that a marriage is real, including more documentation than for other family-based immigration applicants. They subject marriage-based immigrants to a longer and more detailed personal interview and a two-year testing period for couples who have been married fewer than two years.

The government will not normally follow you around or investigate your life beyond the required paperwork and the interviews it always conducts. But it has the power to look deeply into your life if the authorities get suspicious. Government inspectors can visit your home, talk to your friends, interview your employers, and more. By requiring more of married couples than others, the government has already set up a system that gives it a lot of information about whether your marriage is real.

What is the U.S. government's view of a normal marriage? The statutes and regulations don't go into detail on this, so the following comes from a combination of court cases and attorneys' experiences.

According to USCIS, the normal couple has a fair amount in common. They share a language and religion. They live together and do things together, like take vacations, celebrate important events or holidays, and have sex and children. Normal couples also combine financial and other aspects of their lives after marriage. They demonstrate their trust in one another by sharing bank and credit card accounts and ownership of property, such as cars and houses.

The government requires applicants to prove that they share their lives in a way similar to what is described above. Applicants do this by providing copies of documents like rental agreements, bank account statements, and children's birth certificates. The government further tests the validity of the marriage by talking to the applicant and usually to his or her spouse. Every marriage-based applicant for a visa or green card (including fiancés), whether they are applying in the United States or overseas, will have to attend a personal interview with a U.S. government official.

U.S. government officials have developed amazing talents for discovering fraud by examining what look like insignificant details of people's lives. To ferret out lies, they have learned to cross-check dates and facts within the application forms and between the application forms and people's testimony.

**EXAMPLE:** Rasputin has married Alice, a U.S. citizen, in the hopes of obtaining a green card. They submit an application for a green card in the

United States. At Rasputin's green card interview, the officer asks for his full name, his address, and how he entered the United States. Rasputin can't believe how easy this all is. The officer goes on to ask for the dates of all of Rasputin's visits to the United States, the date of his divorce from his previous wife and the dates of all of his children's births. Rasputin is getting bored. Then the officer notices something funny. The date of birth of Rasputin's last child by his former wife is a full year after the date of their supposed divorce. The officer becomes suspicious, and Rasputin and Alice are taken to separate rooms for fraud interviews. They are examined in minute detail about their married lives. When neither of them can remember what the other one eats for breakfast or what they did for their last birthdays, the case is denied and referred to the local Immigration Court for proceedings to deport Rasputin.

If a couple has been married for less than two years when the immigrant first receives residency, USCIS gets a second chance at testing the validity of the marriage. The immigrants in such couples don't get a permanent green card right away. Instead, the

law requires that their first green card expire after another two years. (The technical term is that the immigrant has "conditional residency.")

When the two years are up, both members of the couple must file an application for the immigrant's permanent residency. They must include copies of documents showing that they are still married and sharing the important elements of their lives. This form is mailed to a USCIS office. As USCIS knows, it is extremely difficult for members of sham marriages to keep things together for a full two years, even on paper. If the marriage appears to be a real one when the two years is up, the conversion from conditional to permanent residency won't involve an intensive investigation—the application process doesn't even include an interview if the written application looks legit.

**EXAMPLE:** Maria married Fred, a U.S. citizen, in order to get a green card. Fred was a friend of Maria's, who simply wanted to help her out. Maria manages to get approved by the consulate at her immigrant visa interview, and enters the United States. Because their marriage is new, Maria is given two years as a conditional resident. During those two years, Maria overdraws their joint checking account three times. Fred gets angry and closes the account. Maria has an accident with their jointly owned car and it goes to the junk yard. Fred buys another car in his own name and won't let Maria drive it. Fred gets fed up and wonders why he got into this in the first place. He falls in love with someone else and insists that Maria move out. At the end of her two years of conditional residency, Maria can't get Fred to answer her phone calls. In desperation, she fills out the application form on her own, fakes Fred's signature and lists his address as her own. However, the only documents she can attach are the same bank account statements and car registration she submitted to the consulate two years ago. USCIS checks the files and notices this. They call her and Fred in for an interview. It's not long before the truth comes out and enforcement proceedings are begun.



**Pennsylvania**

State Bird: Ruffed Grouse

As you see from the examples above, people who enter into sham marriages most often trip themselves up just trying to get through the standard process. It's not that USCIS can read people's minds or that it spends all its time peeking into applicants' bedrooms. They simply catch a lot of people who thought that a fake marriage was going to be easier than it really is.

### References to the Immigration Laws in This Book

Throughout this book are references to the federal immigration laws that govern immigration through marriage and to the regulations that describe how the USCIS will apply those laws to you. (They look like this: "I.N.A. § 319(a), 8 U.S.C. § 1430(a)," or "8 C.F.R. § 316.5.") We include these references where we feel it is important to indicate our sources for information and to help you research the immigration laws on your own. See Chapter 17 for more detail on what these references mean and how you can look them up.

## 3. What Happens If You Are Caught

The law pretty much speaks for itself on what happens to immigrants who commit marriage fraud. You can face prison, a fine or both:

*Any individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, or fined not more than \$250,000, or both (I.N.A. § 275(c), 8 U.S.C. § 1325(c)).*

The U.S. citizen or resident could also face criminal prosecution, including fines or imprisonment, depending on the facts of the case. They are most likely to be prosecuted for either criminal conspiracy (conspiring with the immigrant is enough; see *U.S. v. Vickrage*, 921 F.2d 143 (8th Cir. 1990)), or for

establishing a "commercial enterprise" to get people green cards (see I.N.A. § 275(d), 8 U.S.C. § 1325(d)).

The extent to which these penalties are applied depends on the specifics of each case. The government tends to reserve the highest penalties for U.S. citizens or residents engaged in major conspiracy operations, such as systematically arranging fraudulent marriages. But that doesn't mean that small-time participants in marriage fraud can count on a soft punishment—though most immigrants will probably simply be deported and never allowed to return.

## D. How to Use This Book

This book is a unique combination of legal analysis and form kit. If you're like most people, you'll be tempted to go straight to the form kit portions of the book. After all, how many of us read the directions before we plug in a new appliance? But consider this a great big warning label: If you just "plug in" to the visa application process, it could blow up. The U.S. government may give the lucky ones a second chance, but many careless applicants have found themselves deported or prevented from coming to the United States for many years. You won't need to read every section of this book, but please figure out which ones apply to you, and read them.

First, however, a word of reassurance. Most applicants do get a second chance at bringing their application up to the government's standards. A number of people are going through the immigration process on their own, and the U.S. government is accustomed to seeing badly prepared applications. You don't need to worry that one little mistake will lead to an instant denial of your visa or green card. If there is a problem in your application that can be corrected, you'll usually be given time to correct it.

The trouble is, you could make a mistake that's irreversible—like unnecessarily revealing something that makes it look like you're ineligible. So you may as well use the advice in this book to get your application right the first time around.

## 1. Chapters Everyone Should Read

There are a few chapters that everyone needs to read. These include Chapters 1 and 2, which explain whether this book can help you; and whether the immigration laws might exclude you automatically for health, security, or other reasons. We also highly recommend that everyone read Chapter 3, dealing with the income levels necessary to support a new immigrant. Due to recent changes in the immigration laws, lack of financial support is now one of the most common reasons for green card denials.

If your visa or green card prospects still look promising, move on to Chapter 4, which contains important tips on handling all the necessary paperwork. This is a vital chapter—the first impression that you create with your paperwork often determines how much scrutiny the government will give your application.



**Always watch for changes in the law.** The U.S. Congress, USCIS, and the State Department are constantly fixing, adjusting, and updating the immigration laws, procedures, fees, and forms. We can't track you down to tell you if anything in this book is affected—you'll need to check the Legal Updates section of our website at [www.nolo.com](http://www.nolo.com).

## 2. Chapters for Your Situation

After you read Chapters 1 through 4, skip to the chapter that best describes your situation. For example, as shown in “Which Chapter Is for You,” below, if you're living overseas and engaged to a U.S. citizen, you'd turn to Chapter 5. But if you're living in the United States and married to a lawful permanent resident, you'd read Chapter 12.

### Which Chapter Is for You?

Where is the immigrant	Who is the immigrant	Who is the fiancé or spouse	Pertinent Chapter
Overseas	Fiancé	U.S. citizen	5
Overseas	Fiancé	Permanent resident	6
Overseas	Spouse	U.S. citizen	7
Overseas	Spouse	Permanent resident	8
In the U.S.	Fiancé	U.S. citizen	9
In the U.S.	Fiancé	Permanent resident	10
In the U.S.	Spouse	U.S. citizen	11
In the U.S.	Spouse	Permanent Resident	12

Each of Chapters 5 through 12 will help you analyze your immigration situation, discuss what options are available to you, and take you through any necessary preliminary procedures. If you qualify for and want to obtain a green card, you will also be coached to decide whether to apply in the United States, through a procedure called Adjustment of Status, or at a U.S. embassy or consulate abroad, through a procedure called Consular Filing, and directed to a chapter or section which explains these procedures. You will be guided through each part of the process, using checklists designed for your immigration status. The checklists will summarize all the forms and documents that you need, and direct you to the proper forms, line-by-line discussions of how to fill out the forms, and other necessary information. Chapter 13 will instruct you on preparing for your visa or green card interview (the required final step for every applicant).

## 3. Chapters for Unique or Problem Situations

Hopefully, the chapters described above will be all you need to get your visa or green card. However, things don't always happen as they should when dealing with the U.S. immigration bureaucracy.

Therefore, we've included chapters to cover special situations or problems.

If you're lucky, you'll never have to read Chapter 15, *Dealing With Bureaucrats, Delays, and Denials*. But most people find their application takes longer than they think it should. In that case, you'll be glad to have this chapter, as well as the sample reminder and inquiry letters that accompany it. Chapter 15 also deals with what to do if your application is denied. Finally, if your case is turning out to be much more complicated than you'd expected, you'll need to consider getting a lawyer or doing some legal research of your own. In that case, review Chapter 17.

## 4. Chapters to Save for Later

Even after you win a visa or new immigration status, you will still be required to follow some immigration rules. Chapter 16, *After You Get Your Green Card*, covers the rights and responsibilities of visa and green card holders, including you and members of your family. After all this hard work, you wouldn't want to lose your residency. It also covers certain people with young marriages, whose green cards expire after a two-year testing period called conditional residency. This chapter gives them all the

instructions they need to go from conditional residency to a normal green card—that is, permanent residency. Chapter 16 also gives you instructions on how to renew or replace the green card itself.

## 5. Forms and Appendixes

This book includes almost all USCIS and State Department forms you'll need, both as tear-outs and as printable downloads from the CD-ROM at the back of this book. These forms are exactly the same as those provided by USCIS or the State Department; we've simply assembled them for your convenience. In a few cases, however, USCIS or the State Department does not offer a downloadable version of the form, or there are regional variations in the form or other reasons we cannot include the form here. In these cases, we've provided samples within the text to help you fill out the form that you actually receive from USCIS or the consulate.



**Remember to use the checklists.** No matter which immigration status you plan to pursue, it will involve lots of paperwork and documents. If you rely on the proper checklist, you should avoid missing any steps. ■



## Are You Eligible for a Visa or Green Card?

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2. Dealing With Unlawful Time in the United States .....	2/4
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**Y**ou can think of your path towards a visa or green card as requiring you to pass through three main doors—theoretical doors, that is, though they can be harder than the wooden kind. The first door is the *inadmissibility* door: it can be closed on anyone whom the U.S. has decided is unfit to cross its borders. The second door is the *eligibility* door. It can be closed on you if you don't meet the criteria for the particular type of visa or green card for which you apply. The third door is the *procedural* door. It can be closed on anyone who is fouled up by procedural problems and can't get a green card or visa when or where they need it. This chapter covers the first two doors, concerning inadmissibility and visa eligibility. The procedural door will be covered when we reach the parts of this book that cover individual categories of applicants.

into the country); others are the topic of more controversy, such as the exclusion of people who are infected with the HIV virus or have committed certain immigration violations.



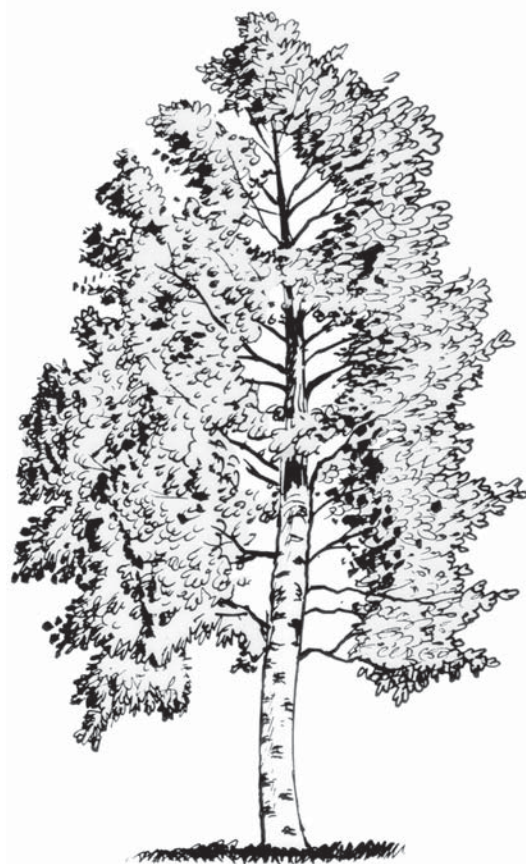
**You can read the law concerning inadmissibility yourself.** The grounds for inadmissibility are in the Immigration and Nationality Act (the primary federal law covering immigrants) at I.N.A. § 212(a); 8 U.S.C. § 1182. You can read this Act at your local law library; at Nolo's Legal Research Center at [www.nolo.com](http://www.nolo.com); or at the State Department's website at [www.travel.state.gov/visa/ineligible.html](http://www.travel.state.gov/visa/ineligible.html). For more information on inadmissibility in plain English, including information on exceptions or waivers, see *U.S. Immigration Made Easy*, by Laurence A. Canter & Martha S. Siegel (Nolo).

## A. Can You Enter the U.S. at All?

Whether you're coming to the United States for a short visit or to stay forever, the U.S. government has the power to tell you "no." Many people are shocked to learn that their engagement or marriage to a U.S. citizen or permanent resident is no guarantee of entry into the United States. The U.S. government has decided that certain types of people will not be allowed into the United States at all. These people are called inadmissible.

Much of your application process will involve proving that you don't fit into one of the categories of inadmissible people, primarily through answering questions and undergoing a security check and a medical exam. If you will be entering the United States on a fiancé visa, you may have to prove that you are not inadmissible twice: first, for the fiancé visa, and again if you are asking for permanent residence, as part of the green card application.

A list of the main grounds of inadmissibility is provided in "What Makes You Inadmissible," below. As you'll see, the reasons concern health, criminal, security, and more specialized issues or problems. Some of the grounds make obvious sense (few would quibble about letting an international terrorist



**New Hampshire**  
State Tree: White Birch



## What Makes You Inadmissible?

The United States will not allow you to enter if you:

- have a communicable disease, such as tuberculosis or HIV
- have a physical or mental disorder that makes you harmful to others
- are likely to become a public charge (dependent on welfare)
- are a drug abuser (“tried it more than once” in the last three years is enough for USCIS)
- have committed or been convicted of a crime of “moral turpitude” (a criminal act that’s considered morally wrong or done with a bad intention)
- have been convicted of multiple crimes with a combined sentence of five years or more
- have been convicted of certain specified crimes, such as prostitution or drug trafficking
- are the immediate family member of a drug trafficker and have knowingly benefited from their illicit money within the last five years
- have committed espionage or sabotage
- are a member of a totalitarian party (Communist in particular)
- are a Nazi or have participated in genocide
- have violated the immigration laws or committed immigration fraud
- falsely pretended to be a U.S. citizen
- are unlawfully present in the United States or haven’t obtained proper documentation to enter the United States
- were previously removed or deported from the United States
- are a polygamist (have married more than one person at the same time)
- have committed international child abduction
- are on a J-1 or J-2 exchange visitor visa and are subject to the two-year foreign residence requirement.

The grounds of inadmissibility which are most likely to cause trouble for engaged or married couples are those concerning previous immigration violations, the immigrant’s ability to support him or herself (those who can’t support themselves become “public charges” in immigration law lingo), and health problems. Specific situations that might cause you difficulty under these categories include:

- You have lived or are living unlawfully in the United States, having stayed past the expiration date of your visa or entered the country illegally. (See Section A2, “Dealing With Unlawful Time in the United States,” below.)
- In the past, you have committed marriage or other immigration fraud. Even if you haven’t yet been found out, filing a new visa or green card application will give the immigration authorities an opportunity to snoop around a bit more.
- Your spouse is unable to support you financially, you don’t have the means to support yourself in the United States, and the rest of the family won’t pitch in. (An extensive discussion of the financial requirements to obtain a green card and further strategies for meeting these are set forth in Chapter 3, Meeting Income Requirements.)
- You are infected with the HIV virus or have some other communicable illness. You may attempt to get a waiver, but it involves an application and paperwork that we do not cover in this book. (A good place to go for advice and referrals if you are HIV-infected is the AIDS Legal Referral Panel in San Francisco at 415-701-1100 or at [www.alrp.org](http://www.alrp.org).)



**For any of the above situations, or if another item on the inadmissibility list seems to apply to you, you may need to see a lawyer.** For information on finding an attorney see Chapter 17.

### Immigrants From Overseas May Not Be Able to Bring Certain Items or Goods

When you come to the United States, you'll not only have to think about whether you'll be admitted, but whether the contents of your luggage will be allowed in with you. U.S. Customs and Border Patrol (CBP) regulates not only people, but also the goods and currency that all travelers bring to the United States. A CBP officer will question you and may search your luggage. Certain items are completely prohibited (such as drugs and weapons); others can be brought in only in limited amounts (such as alcohol and tobacco) and others are subject to more specific restrictions or taxes. For more information, see the CBP's website at [www.customs.gov/xp/cgov/travel](http://www.customs.gov/xp/cgov/travel), and click "Visiting the United States," or ask your local U.S. consulate for more information.

## 1. You Must Pass a Medical Exam

As a test of whether you fall into a health-related ground of inadmissibility, your application for a fiancé or marriage-based visa will include a medical exam by a doctor approved by the U.S. consulate or USCIS. Your own doctor cannot do the exam unless he or she happens to be on the government's list of approved doctors. The purpose of the exam is to make sure that you don't have any serious or communicable diseases, mental disorders, or drug problems that would make you inadmissible, and that you have had all the required vaccinations.

There is no official list of diseases or disorders that will make you inadmissible, other than HIV, which is specifically mentioned in the immigration law. The examining doctor will decide whether your condition and behavior has "posed or is likely to pose a threat to the property, safety, or welfare of the alien or others." The CDC's "top suspect" diseases include HIV, infectious tuberculosis, untreated venereal and other sexually transmitted diseases, and untreated Hansen's disease (leprosy).

If you have an illness that causes you trouble but won't infect or injure others, such as heart disease, cancer, or certain mental illnesses, you won't be inadmissible on medical grounds. However, watch out for inadmissibility as a public charge if you won't be able to work and don't have medical insurance. (Chapter 3 covers inadmissibility on the grounds of lack of support.)

### Vaccinations You Must Have

The required vaccinations presently include the ones listed below. If other diseases later become preventable by vaccines, they may be added to this list.

- mumps
- rubella
- measles
- polio
- tetanus
- diphtheria toxoids
- pertussis
- influenza type B
- hepatitis B.

## 2. Dealing With Unlawful Time in the United States

In the late 1990s, Congress decided to punish people who spend time in the United States unlawfully, without permission from the immigration authorities. It created a penalty that prevents people from coming or returning to the United States for three years or ten years, depending on how long they stayed illegally in the country. These are usually referred to as the "time bars," or the "three- and ten-year bars."

In addition, people who lived in the United States illegally for more than a year and then left or were deported, but who returned to the United States illegally (or were caught trying to), can never get a green card. This is usually referred to as the "permanent bar."

If you have spent time in the United States unlawfully at any time after April 1997, this section could be one of the most important parts of this book for you to read and understand, no matter where you're living now.



**“Unlawful” is a difficult legal term.** If you know that you were here without USCIS permission, it's safe to say that your stay was unlawful. But the boundaries are less clear if, for example, you were waiting for USCIS to approve or deny an application you'd filed, were in removal (immigration court) proceedings, or had a visa but violated its rules. For issues such as these, you'll need to consult a lawyer.

### a. The Three- and Ten-Year Time Bars

The first thing to understand about the time bars is that (with rare exceptions) they are only imposed on people who are overseas and trying to return to the United States, not people who are already here and have the right to apply for their green card here. Unfortunately, a number of people have no choice but to apply for their immigrant visa and green card through an overseas U.S. consulate, either because they are already overseas, or because they are in the United States but ineligible to use the U.S. green card application procedure called Adjustment of Status, and must leave the United States to apply. If you are one of these people, the Time Bars could delay your immigrating to the United States as follows:

- **Three Years.** If you've spent more than 180 continuous days (approximately six months) in the United States unlawfully, you could be barred from coming back for three years.
- **Ten Years.** If you've spent more than one continuous year in the United States unlawfully, you could be barred from coming back for ten years.

Applicants who leave the United States to attend their immigrant visa interview at an overseas consulate probably won't be officially warned about the time bars before they leave. This means that you could get all the way through receiving approval of

your initial visa petition (Form I-130), submitting your follow-up paperwork, and getting an interview appointment—only to leave the United States, attend your visa interview, and have the consular official inform you that although they would love to give you a visa, the time bars prevent you from actually reentering the United States for another three or ten years.

### i. Loopholes in the Time Bar Law

Not everyone who has ever lived in the United States unlawfully will have a time bar problem. The law contains a few loopholes, as follows:

- Since the law didn't go into effect until April 1, 1997 no unlawful time before that date counts.
- None of your unlawful time when you were under the age of 18 counts.
- The law only punishes “continuous” time, so a few months here and there don't count, as long as no single stay lasted 180 days or more.

Using these loopholes and some basic math, you might find that people who look like they have a time bar problem are safe after all. Here are some examples:

- Rosalie was a student in the United States from 1990 to 1995. She continued to live here unlawfully until April 1, 1997. She is not subject to the time bars because unlawful time doesn't start to count until April 1, 1997.
- Rosalie just checked her calendar and realized she stayed until July 1, 1997. But she still isn't subject to the time bars because her stay was for less than 180 continuous days after April 1, 1997.
- Juan crossed the Mexican border illegally six times in 2004, and stayed in the United States for time periods of two months each, for a total of 12 months. Now Juan wants to enter legally. The time bars will not apply to him because he did not stay for more than 180 continuous days.
- Soraya entered the United States as a visitor on June 1, 2003 and her visa expired three months later. She stayed in the United States until June 6, 2004. Soraya turned 18 on February 1, 2004. The time bars will not apply to her because

only about four months of her unlawful time—less than 180 days—was while she was over the age of 18.

## ii. Waivers of the Time Bar Law

If you have a time bar problem, don't just give up. If you're already married to a U.S. citizen or permanent resident, you are one of the lucky few who can ask for forgiveness, known in legal jargon as a waiver. But you'll need a lawyer for this—these waivers are not easy to get.

To be eligible, you'll have to show that if you don't get the visa, your U.S. spouse will suffer extreme hardship. And when the immigration laws say "extreme" hardship, they mean it—the sadness that your spouse will feel at your living thousands of miles away won't even begin to get your waiver application granted. An example of a case where the government would recognize extreme hardship is one where your spouse has a severe medical problem and requires your constant attention.

These time bars put visa applicants who must apply for their visas overseas at a huge disadvantage. But the key point is that the time bars are not imposed on applicants who are within the United States, are eligible to adjust their status here, and who don't leave. So if you are eligible to file your green card application (adjust status) in the United States, do so and stay put until it's granted. (See Subsection b below to find out whether you are eligible.) And if you are living in the United States unlawfully but are not eligible to adjust status here, see a lawyer.

**EXAMPLE:** Panos came to the United States on a temporary work visa. He fell in love with Debbie, a U.S. citizen. They got married and took a long honeymoon driving around the United States. The only trouble was, Panos's employer didn't authorize that vacation and it fired him—which meant that his work visa was no longer valid. While Panos tried to figure out what to do next, time ticked by. After he had been here unlawfully for six months, he heard about the time bars and panicked. But he didn't need to panic—the combination of his legal entry to the United States and his marriage to a U.S. citizen made him one of the

lucky few immigrants who can apply to adjust their status at a USCIS office. Since Panos won't have to leave the United States, he won't be penalized for his unlawful stay.

## How Could a Lawyer Possibly Help Me?

Because the time bars are a fairly new area of the law, USCIS policy and legal interpretations are changing constantly. For that reason, anyone living in the United States with a time bar problem will want to get the latest information from a lawyer before making any decisions.

The lawyer could advise you, for example, whether there is any new legislation pending that would expand the right to use the Adjustment of Status procedure; when and if your spouse might be eligible for U.S. citizenship if your spouse is now a permanent resident (which would help you if you entered with a visa); and the current odds of being granted a waiver if you do decide to risk leaving and applying for your immigrant visa and green card through an overseas consulate. But be sure to find a lawyer who's an expert in this highly complex area.

## b. Getting Around the Time Bars by Adjusting Status

One of the strangest features of the time bars is the fact that they apply only to people who are outside the United States trying to get in, not to people who are submitting applications while they are in the United States. For this reason, if you have stayed in the United States unlawfully and you are still in the United States now, it's essential that you stay here in order to avoid the time bars. Unfortunately, only certain types of people are eligible to adjust (change) their immigration status to get a green card in the United States. The rest will have to leave the country and apply from abroad—and face the roadblock of the time bars.

Under current law, only three categories of marriage-based visa applicants are allowed to adjust status and receive their green card in the United States. They include people who:

- entered the United States legally and are married to a U.S. citizen, no matter how long they have overstayed their visa (I.N.A. §§ 245(a), 245(c)(2); 8 U.S.C. §§ 1255(a), 1255(c)(2))
- entered the U.S. legally, have not overstayed their visa, have never violated any visa terms or worked here illegally, and have a current Priority Date making a visa immediately available to them (Priority Dates are discussed in Chapters 8 and 12; you'll later read whichever chapter is appropriate to your situation). See I.N.A. §§ 245(a), 245(c)(2), 245(c)(8); 8 U.S.C. §§ 1255(a), 1255(c)(2); 1255(c)(8). This section includes people who are marrying U.S. permanent residents. Although it is unlikely that such persons would have a time bar problem, they could have accumulated unlawful time on a previous U.S. trip after April 1, 1997, but somehow gotten a visa for their most recent entry.
- had initial visa petitions filed for them long enough ago that their cases must be decided under old laws, which allowed applicants access to the Adjustment of Status procedure by paying a penalty fee.

Let's look at each of these categories in more detail.

**Married to a U.S. citizen.** In order to fall under the first category of people who can adjust status without leaving the United States, the applicant will have to prove that he or she entered the United States legally. Legal entries include those with a visa, under the Visa Waiver program, with a border-crossing card, or by some other means so long as the applicant was met and allowed to enter by an official of the U.S. government. The applicant's spouse must be a U.S. citizen, not just a permanent resident.

It does not matter when the spouse became a U.S. citizen—the minute they become one, an applicant who entered with a visa becomes eligible to use the Adjustment of Status procedure. This is true even if they have overstayed their visa and are in the United States illegally.

**Married to a U.S. permanent resident.** It is rare for spouses of permanent residents to be able to use the Adjustment of Status procedure. To do so, you would have to prove that:

- your most recent entry into the United States was legal
- you have not violated the terms of your recent entry visa or any other past visa
- you never worked illegally in the United States, and
- you are immediately eligible to apply for permanent residence, meaning you've already spent the years required on the government's waiting list, there is a visa number available to you, and the government is ready to let you take the final steps toward applying for your green card.

It would be highly unusual for anyone with a time bar problem to fit into this category. Even for people with no time bar problem, this combination of circumstances almost never occurs, but it could.

**EXAMPLE:** Megumi enters the United States as a student to enroll at UCLA. She falls in love with Shigeru, a U.S. permanent resident, and they marry six months later. He immediately files an initial petition with USCIS and Megumi is put on the waiting list. Five years later she reaches the top of the list and is allowed to apply for a green card. Since she has been legally in the United States, has not violated her student visa, and now has a visa number currently available to her, she can adjust her status to permanent resident in the United States.

**Visa petitions filed long ago and before certain deadlines.** To fall into the third category, a family member must have started the immigration process for you during a specific period of time. In the mid-1990s, Congress passed a rather humane piece of legislation called "Section 245(i)" of the immigration law. Section 245(i) said that anyone who was eligible for a green card, even if they entered illegally or were only married to a lawful permanent resident, could use the Adjustment of Status procedure so long as they paid a large penalty fee. It didn't matter how

they entered the United States or who they married. Section 245(i) allowed many people to avoid the hassle of leaving the United States to do consular processing—and if it had remained on the law books, would have allowed a number of people to avoid the time bars.

But in 1998 Congress cancelled Section 245(i). The only people who can still use it are those who began their immigration process by filing a Form I-130 before certain dates. We will cover Form I-130 later, but briefly, it is the first application that any couple submits, and your U.S. citizen or permanent resident wife or husband would probably be the one who submitted it for you. You would probably know if one had been submitted for you. Ideally, you would have an approved I-130. But if your petition was mistakenly denied for some reason, you may still be able to use the petition to adjust your status to permanent resident (though you would likely need a lawyer's help for this).

You can be grandfathered in and allowed to use the old Section 245(i) if your I-130 was submitted to the INS (as USCIS was then called) either:

- Before January 14, 1998 (the day §245(i) was originally cancelled), or
- Between January 14, 1998 and April 30, 2001, if you can prove that you were physically present in the United States on December 21, 2000 (the day this piece of legislation was signed).

If your husband or wife did not submit an I-130 for you by one of these two dates, you may not be out of luck yet. In a wonderful policy move, USCIS has said that it will allow you to use an I-130 filed by any U.S. family member on your behalf. If you had a prospective employer or a close family member (such as a parent, child, or brother) who tried to start the immigration process for you by filing an I-130 before one of the dates listed above, that I-130 is transferable. It can become your ticket to using the Adjustment of Status procedure to apply for a green card in the United States based on your current marriage.



#### **Watch for Congress to extend Section 245(i) again.**

Before making any final determinations about whether you are eligible to adjust your status without leaving the United States, see if Congress has extended the dates described above, grandfathering you in; or better yet, has brought back Section 245(i). Such legislative proposals come up frequently, so

### **Who Can Adjust Status in the United States**

	<b>Applicant is married to a U.S. citizen</b>	<b>Applicant is married to a lawful U.S. permanent resident</b>
<b>Applicant entered the United States illegally</b>	Cannot adjust status unless grandfathered in	Cannot adjust status unless grandfathered in
<b>Applicant entered the United States legally and is within the expiration date of visa or status</b>	Okay to adjust status	Can adjust status only if an immigrant visa is immediately available (via a current Priority Date, discussed in Chapters 8 and 12); the person has not violated the terms of any visa; and the person has never worked illegally in the United States; or if and when spouse becomes a U.S. citizen or the person is grandfathered in
<b>Applicant entered the United States legally but stayed past the expiration date of visa or status</b>	Okay to adjust status	Cannot adjust status until and unless spouse becomes a U.S. citizen, or the person is grandfathered in



watch the news as well as the Legal Updates section of Nolo's home page at [www.nolo.com](http://www.nolo.com).

To make use of the option of being grandfathered in under Section 245(i), you'll still have to pay a hefty penalty fee, currently \$1,000 (I.N.A. § 245(i), 8 U.S.C. § 1255(i)).

If you are eligible to adjust status—that is, apply for your green card in the United States—you would be wise to take advantage of this procedure, especially if you have a time bar problem. Do not leave the United States until you are approved. If you take even the tiniest trip outside the United States before your green card approval, you will lose your chance to avoid the time bar penalty, because you will be outside trying to get in.

### c. The Permanent Bar

The permanent bar applies to people who spend a total of one year's unlawful time in the United States or are ordered deported (even after spending less than one year there). If such a person then leaves and returns or attempts to return to the United States illegally (without a visa or other permission) he or she is permanently inadmissible to the United States. Known as the permanent bar, this law is one of the harshest aspects of the immigration laws. It even makes immigration lawyers shudder to think about. It is found at I.N.A. § 212(a)(9)(C), 8 U.S.C. § 1182(a)(9)(C).

Unlike the three- and ten-year time bars, the permanent bar applies only to people who have entered the United States illegally, or are trying to. If the total of all their previous stays is one year or more, then that person will never be allowed back into the United States or given a green card when they apply for one here.

The law took effect on April 1, 1997, so no illegal time before that date counts. There is almost no way to wiggle out of a permanent bar. An applicant can request a waiver (official forgiveness), but only after a full ten years have passed since leaving the United States. And you cannot avoid the penalty by staying in the United States to adjust status.

**EXAMPLE 1:** Cosimo came to the United States in 1996 on a three-month tourist visa. He stayed past the visa's expiration date and didn't leave until June 1, 1998; so he accrued over one year of illegal time after April 1, 1997. Then he went to Canada and lived there for a while. But he missed his U.S. citizen girlfriend, so he came back with a friend, who hid him in the back of his truck. Cosimo and his girlfriend married and he applied for a green card. However, the combination of his 15-month stay after April 1997 and his subsequent illegal entry is poison. He is subject to the permanent bar and cannot get a green card through his wife unless he spends the next ten years outside of the United States, remains married, and the U.S. government forgives him.

**EXAMPLE 2:** Jorge lives in Mexico, near the El Paso border. He is a pro at crossing illegally and picking up odd jobs on both sides of the border. Between April 1, 1997 and July 2004 he crossed the border illegally at least 17 times and stayed between two weeks and three months each time. The combination of all his stays, however, adds up to more than a year. When he marries his U.S. citizen girlfriend in July 2004 and tries to apply for a green card, he is hit with the permanent bar. Only if he can stay out and stay married for ten years can he apply for a waiver to return and claim permanent residency.



**If you think you might be subject to the permanent bar, see a lawyer immediately.** Chapter 17 has tips on finding a good attorney.

### d. Proving You Didn't Stay Unlawfully

The first question anyone asks when they hear about the time bars is, "How will anyone know? The United States is a huge country, and even with space-age technology, its government can't possibly trace who was living there and when."

But the real question to ask is, “What happens if they suspect that I was here illegally?” Because as soon as there is a hint that you might have lived in the United States illegally, it becomes your problem. You have to prove to the U.S. government that you *didn’t* live there illegally, not the other way around. People in this situation must come up with copies of their plane tickets, rent receipts, credit card statements, pay stubs, medical records, school transcripts, and more, all to prove that they were in the United States until a certain date and then left.

**EXAMPLE:** Siri came to the United States from Norway on a six-month tourist visa in March 2003, but didn’t leave until January of 2004—a four-month overstay. Her U.S. citizen boyfriend then petitioned for her as his fiancé. Everything was going fine until she went to the U.S. consulate in Norway for the final interview to get her fiancé visa. Siri explained the four-month overstay, knowing that this wasn’t long enough to subject her to any penalty, not even the three-year bar. But the consulate demanded proof that she wasn’t in the United States longer than four months. Siri had lived with her parents after she got home and had thrown out her plane tickets. She had no paperwork with her to prove when she had returned to Norway. Luckily, the consulate gave her more time and she eventually came up with a copy of her frequent flier statement showing the date of her travel, as well as a prescription that she got in February 2004 in Oslo. The visa was granted.



**If you have spent any time in the United States since 1997, make sure you are prepared to prove that you returned home on time.** Begin gathering all relevant documents now, such as rent receipts, plane tickets, credit card statements, and more.

## B. Are You Eligible for a Fiancé or Marriage-Based Visa or Green Card?

Section A above should have helped you determine whether you can get through the first door, which screens who is admissible to the United States. Now we’re moving to the second door: Are you eligible for the particular type of visa or green card that you are seeking? This book covers two basic choices: the fiancé visa and the marriage-based visa or green card.

Remember, we’re still not talking about the procedures to get these visas and green cards—this will come later. Of course, since we haven’t gotten to the procedures yet, you might feel uncertain about which visa you’ll be using. For now, it is safe to assume that you will be applying for a fiancé visa only if you are presently living overseas and are engaged to a U.S. citizen (but not a permanent resident, since there are no fiancé visas for spouses of permanent residents). Everyone else should apply for a marriage-



**Ohio**

State Flower: Red Carnation



based visa or green card. (In the unlikely event that you later decide that you want or need the other visa, don't worry—the eligibility criteria are so similar that you won't have wasted your time.)



Everyone applying for a marriage-based visa or green card, not a fiancé visa, skip ahead to Section 2.

## 1. The Legal Requirements for a Fiancé Visa

A fiancé visa will get you into the United States to get married. To be eligible for a fiancé visa, you do not have to intend to live permanently in the United States after your marriage. Whether you decide to stay in the United States and apply for a green card is up to you. (If you know in advance that you won't be staying in the United States, however, you could apply for a tourist visa instead—but see Chapter 5 for more on the risks and benefits of using that visa.)

In order to be eligible for a fiancé visa, the law requires applicants to meet certain criteria. The law requires that you:

- intend to marry a U.S. citizen (see Subsections a and b, below)
- have met your intended spouse in person within the last two years (though this can be waived based on cultural customs or extreme hardship; see Subsection c), and
- are legally able to marry (see Subsection d).

### a. You Must Intend to Marry

The requirement that you intend to marry might seem obvious—you wouldn't be applying for a fiancé visa if you didn't plan to get married in the United States. But keep in mind that the U.S. government wants more than your assurance that a marriage is somewhere on your horizon. They will want proof that you've made actual plans, such as a place, a date, a type of ceremony or proceedings (even if the proceedings are only in front of a judge), and more. We'll talk more about how to provide this

evidence in the chapter matching your individual situation, below.



**Make your wedding plans flexible.** You can't know exactly how long it will take to get the fiancé visa, but you'll have to hold your wedding within 90 days of entering the United States. Before you sign any contracts for catering, photographic, or other services, discuss the situation with the service providers and build some flexibility into your contracts or agreements in case the date needs to change.

### b. Your Intended Spouse Must Be a U.S. Citizen

To be eligible for a fiancé visa, the person that you plan to marry must be a citizen, not a permanent resident, of the United States. A U.S. citizen is someone who either was:

- born in the United States or its territories
- became a citizen through application and testing (called naturalization), or
- acquired or derived citizenship through a family member. (Acquisition and derivation of citizenship are complex areas of the law. In general, however, people may acquire citizenship by being born abroad to one or two U.S. citizen parents; they may derive citizenship if they are lawful permanent residents first and one of their parents is or becomes a U.S. citizen.)



To learn more about acquired and derived citizenship, visit Nolo's online Immigration Law Center at [www.nolo.com/category/im\\_home.html](http://www.nolo.com/category/im_home.html). Or see *U.S. Immigration Made Easy*, by Laurence A. Canter and Martha S. Siegel (Nolo).

Unlike some other countries, the United States does not require that its citizens carry any sort of national identity card. People who are U.S. citizens may have different types of documents that prove their status, such as a birth certificate, a U.S. passport, or a naturalization certificate. We'll talk more in later chapters about how your spouse can obtain docu-

mentary proof of his or her citizenship that will satisfy the immigration authorities



**Permanent residents of the United States—also known as green card holders—are not U.S.**

**citizens.** If your spouse is only a permanent resident, he or she can petition to obtain permanent residency for you, but your marriage must already have taken place—there are no fiancé visas available to you.

### c. You Must Have Met in Person Within the Last Two Years

To protect against sham marriages, the law also requires that you and your intended have met in person within the last two years in order to be eligible for a fiancé visa. These days, a surprising number of couples fall in love over the Internet, or even through old-fashioned letter writing. Such couples will need to make sure they schedule at least one in-person meeting in the two years before applying for the fiancé visa. Even a brief meeting may be sufficient.

In some countries, prospective husbands and wives customarily do not meet before their wedding. If one or both of you come from a country where such a meeting would not be acceptable, you may find the meeting requirement a bit of a hurdle. Fortunately, if you provide documentation of the prevailing customs in your country, USCIS may overlook this requirement.

**EXAMPLE:** Dimple, a 21-year-old native and resident of India, is engaged to Athar, a naturalized U.S. citizen. Athar is 29 years old and lives and works in California. Athar remembers seeing Dimple playing in a nearby courtyard when they were both children in India. They have exchanged recent photos and their parents, who are very traditional, have approved a marriage. Athar and Dimple will have no problem with two of the three eligibility criteria: they intend to marry (they can show evidence of wedding arrangements in California) and they are legally able to marry (for example, neither is underage, and neither is already married to someone else). But they

don't meet the third eligibility criteria, since they haven't personally met within the last two years. To overcome this obstacle, in their application they include a letter from their religious leader, sworn statements by their parents, and other documents showing that they come from families and a culture where arranged marriage without a face-to-face meeting is an important and accepted practice. USCIS may waive the in-person meeting requirement.

The meeting requirement may also be waived if the U.S. citizen spouse can show that arranging a physical meeting would result in extreme hardship to him or her. This exception is usually granted only in cases where the U.S. citizen suffers from severe medical problems that would make an overseas visit difficult. Financial concerns are not usually considered sufficient to prove extreme hardship.

**EXAMPLE:** Tom is a U.S. citizen confined to a wheelchair. He has severe environmental and food allergies. It is unsafe for him to leave the controlled environment of his home. He is also an Internet junkie and has been corresponding with Kathy, a native of Australia, for the last three years. They have exchanged not only emails, but photos and even videos, and have decided to marry. By providing copies of their communications with one another, as well as a letter from Tom's doctor and copies of his medical records, the couple may be able to obtain a waiver of the meeting requirement so that Kathy can enter the United States as a fiancé.

### d. You Must Be Legally Able to Marry

Last but not least, to be eligible for a fiancé visa there must not be any legal barrier to your getting married. You may not have to provide anything at all to satisfy this requirement if you're an adult who's never been previously married and you're not a blood relative of your fiancé. This requirement is primarily directed at couples in which:

- one person is underage

- one person has been previously married and needs to prove that that marriage was legally ended, or
- the two members of the couple are related by blood.

If one of you is under the age of 18, you may be considered underage. Your legal ability to marry will depend on the laws of the state where you plan to get married. Each of the 50 U.S. states sets its own rules, and you will need to research them. For example, you may find that in one state you must be 18 years of age to marry, while in another you can marry younger if you can show the consent of your parents.

If you or your fiancé have been previously married, you will not be given a fiancé visa until you prove that that marriage was legally ended, for example by death, divorce, or annulment. This is usually easily proven, by obtaining copies of records from the court or local civic records office. If your divorce or annulment occurred overseas, the U.S. government will recognize it so long as it is recognized in the country where it took place.

If you and your fiancé are blood relations, your legal ability to marry will depend on the laws of the state where you plan to get married. You will need to research these rules. You'll find that all states prohibit marrying your sister or brother (sibling), half sibling, parent, grandparent, great grandparent, child, grandchild, great grandchild, aunt, uncle, niece, or nephew. But some states have additional prohibitions, such as marrying your first cousin.



To get started researching marriage laws in the United States, see the article on Nolo's online legal encyclopedia entitled "Marriage Requirements, Procedures, and Ceremonies FAQ." It's available online at [www.nolo.com/encyclopedia/articles/mlt/sp14.html](http://www.nolo.com/encyclopedia/articles/mlt/sp14.html).



**U.S. immigration law does not recognize homosexual marriages.** USCIS persists in limiting its definition of marriage to heterosexual unions, even though the state of Vermont and approximately 16 countries, such as Denmark, Norway, Greenland, and

Holland, legally recognize same-sex partnerships. If you are a lesbian or gay couple, the non-U.S. citizen partner will have to look for ways other than your marriage to get a green card or other right to live in the United States. If your marriage includes a partner who has undergone surgery to change genders, you won't have any better luck with USCIS. Its current policy is to view marriages involving a transgender partner as equivalent to same-sex marriages, and deny the green card. However, this policy has given rise to discussion, and might change in the future.

## 2. Your Children's Eligibility

Your unmarried children under the age of 21, whether or not they are the biological children of your U.S. citizen fiancé, may be eligible to accompany you to the United States and apply for green cards. Children include not only your natural children, but your adopted children and children born out of wedlock, if your home country legally recognizes them as yours.

Your children will have to go through the same (or a very similar) application process as you. They'll have to prove that they are not inadmissible and that they will be financially supported along with you. This book will give you an overview of the application procedures that your children will have to follow, but will not cover them in great detail.

For your planning purposes, however, note that the children must remain unmarried and under age 21 right up to the day they enter the United States. Fortunately, if you alert the immigration authorities to an upcoming 21st birthday, they can usually speed up the application process for you.



**Check your own country's law on taking your children if their other parent is staying behind.**

If you are planning to bring children to the United States who are not the biological children of your fiancé, it will be up to you to comply with any custody requirements. Even if the children are legally in your custody, you may need to get written consent from the other parent for you to take the children out of your country.

### 3. The Legal Requirements for a Marriage-Based Visa or Green Card

If you are already married to a U.S. citizen or permanent resident, you will apply for a marriage-based visa or green card. To be legally eligible, you and your spouse must show that you are:

- legally married (see Subsection a, below)
- in a bona fide marriage (see Subsection b, below)
- married to a U.S. citizen or lawful permanent resident (see Subsection c, below), and
- that neither you nor your spouse are married to anyone else (see Subsection d, below).

#### a. You Are Legally Married

To qualify for a marriage-based visa or green card, you must be legally married. A legal marriage is one that is officially recognized by the government in the country or state where you were married. This doesn't mean that the president has to give you a personal seal of approval, but it usually means that an official record of your marriage has been made or can be obtained from some public office.

For this reason, domestic partnerships, in which a couple lives together but have not formalized their relationship, are not normally recognized for immigration purposes. However, if you have lived together in a place that recognizes common law marriages, you may be able to show that you met the requirements for your marriage to be legally recognized in that state or country. We do not cover common law situations in this book. If you are in this circumstance, you may want to consult an attorney.

You do not need to have been married in the United States for your marriage to be legal. It is perfectly acceptable if you marry in your home country or in the luxurious or adventurous travel destination of your choice. A variety of marriage procedures are also recognized, from church weddings to customary tribal practices. But note that both you and your spouse must have actually attended your wedding ceremony—so-called “proxy” marriages, where another person stands in for the bride or groom, are

not recognized by the U.S. government unless the couple later consummates the marriage, meaning they have sexual relations.

If you have not yet married, make sure you are eligible to do so. The state or federal government where you intend to marry may have legal restrictions on who can marry. In the United States, each of the 50 states establishes its own marriage rules. For example, in some states you must be 18 years of age to marry, while in others you can marry younger if you can have the consent of your parents. If you and your spouse are related by blood, you'll also need to do some research. You'll find that all states prohibit marrying your sister or brother (sibling), half sibling, parent, grandparent, great grandparent, child, grandchild, great grandchild, aunt, uncle, niece and nephew. But some states have additional prohibitions, such as marrying your first cousin.



For more on marriage requirements in the United States, see “Marriage Requirements, Procedures, and Ceremonies FAQ” in Nolo’s legal encyclopedia at [www.nolo.com/encyclopedia/articles/mlt/sp14.html](http://www.nolo.com/encyclopedia/articles/mlt/sp14.html).

Finally, you will need to provide a document to show you were legally married—most commonly, a marriage certificate issued by a legitimate governmental agency. A warning is in order here—a piece of paper from a church or a ship’s captain won’t, on its own, be enough to establish that you really are married. How you’ll go about providing the appropriate documentation will be covered in more detail in later chapters.

#### b. Your Marriage Is “Bona Fide”

A bona fide marriage is one in which the two people intend, from the start, to establish a life together as husband and wife. Although this can mean different things to different people, one thing is clear: A marriage entered into for the sole purpose of getting the immigrant a green card is not bona fide. (It’s called a “sham” or “fraudulent” marriage, and uncovering these relationships is a top USCIS priority.) When it comes to deciding whether a marriage is bona fide, USCIS is pretty strict.

**EXAMPLE 1:** Yoko has been studying in the United States for four years. She would like to stay permanently, but can't find an employer to sponsor her. A classmate tells her that for \$5,000, he'll marry her and take care of sponsoring her as an immigrant. If Yoko agrees, this will be a classic case of marriage fraud.

**EXAMPLE 2:** Ermelinda and Joe are very close friends, who have occasionally had sexual relations, but are not now romantically involved. Ermelinda came to the United States on a student visa. However, because she dropped out of school, she no longer has any legal status or right to remain in the United States. When Ermelinda is threatened with deportation, Joe, a U.S. citizen, would like to help her. He figures he can live with her for a few years and then move on. Joe and Ermelinda get married. In the eyes of USCIS, this is marriage fraud.

**EXAMPLE 3:** Viktor and Beth have been living together in the United States since not long after Viktor came here on a student visa, two years ago. They are in love and have talked about marriage, but were nagged by doubts as to whether their marriage would work out. But when Viktor's student status ran out, he realized he'd either have to marry Beth or leave her and return to Russia. They marry and apply for his green card. This case is basically bona fide, since the relationship is real—but they will need to be careful in presenting it at the eventual green card interview. Viktor and Beth shouldn't offer up information about their doubts about the marriage. If this subject does arise, they'll emphasize their intention to make their marriage last.

### c. You Married a Citizen or Permanent Resident of the United States

There are only two classes of people living in the United States who can obtain permanent residency or green cards for their spouses through the process described in this book: U.S. citizens and U.S. lawful

permanent residents (green card holders). People with temporary rights to live in the United States (such as visas or work permits) cannot petition for their spouse to become a permanent resident.

### i. Determining Whether Your Spouse Is a U.S. Citizen

Your spouse may have become a U.S. citizen in a variety of ways, including the following:

- being born in the United States or its territories
- becoming a citizen through application and testing (called naturalization), or
- acquiring or deriving citizenship through a family member. (Acquisition and derivation of citizenship are complex areas of the law. In general, however, people may acquire citizenship by being born abroad to one or two U.S. citizen parents; they may derive citizenship if they become lawful permanent residents first and then their parents are or become U.S. citizens.)



To learn more about acquired and derived citizenship, visit Nolo's Immigration Law Center at [www.nolo.com/category/im\\_home.html](http://www.nolo.com/category/im_home.html), see *U.S. Immigration Made Easy*, by Laurence A. Canter and Martha S. Siegel (Nolo), or ask your local nonprofit organization serving immigrants for more information.

Unlike some other countries, the United States does not require that its citizens carry any sort of national identity card. People who are U.S. citizens may have different types of documents that prove their status, such as a birth certificate, a U.S. passport, or a naturalization certificate. We'll talk more in later chapters about how your spouse can obtain documentary proof of his or her citizenship that will satisfy the immigration authorities.

### ii. Determining Whether Your Spouse Is a U.S. Lawful Permanent Resident

A lawful permanent resident is someone with a legally obtained green card. This means that the person has a right to live in the United States permanently and may eventually become a U.S. citizen. The spouses of permanent residents are eligible for a green card.



You should know, however, that the fact that your spouse has a green card now doesn't guarantee that he or she will have it forever. Permanent residence can be lost, for example, if the person makes his or her home outside the United States or commits certain crimes or other acts that cause USCIS to begin removal proceedings and order them deported. If your spouse lost his or her permanent residence, you would also lose your right to immigrate through your marriage.



**A green card is not the same thing as a work permit card.** If your spouse carries a card with the title Employment Authorization Document, he or she is not a permanent resident. The right to work in the United States is a temporary right, usually given to people who are waiting for a decision on an immigration application (including green card applications). You can't get a green card through someone who only has permission to work here.

#### **d. This Is Your and Your Spouse's Only Marriage**

Most people would love to leave their previous marriages far behind them. However, the U.S. government doesn't make it that easy if you want to enter this country via a new marriage. Any previous marriages must have ended by legal means—such as death, divorce, or annulment—and you'll have to present the official documents to prove it. Otherwise, USCIS will wonder whether your first marriage is still your active and real one—making your new marriage just a sham to get a green card. We'll talk more in later chapters about how to obtain the appropriate documents to prove a prior marriage has ended.

### **4. Your Children's Eligibility**

Your foreign-born children, whether or not they are the biological children of your petitioning spouse, may be eligible to obtain green cards along with you. It won't happen automatically, however. They will have to go through the same or a very similar

application process as you do. They'll have to prove that they are not inadmissible and that they will be financially supported along with you.

If your children are unmarried and under age 21, they will (with very few exceptions, as you'll see below) be placed in the same category of applicant as you. The result will be that they get a visa or green card at the same time as you do.

If your children are married or over age 21, they may or may not be able to get a visa, and any visa they might get will take years longer than yours to obtain. Their eligibility will depend in part on whether your spouse is a U.S. citizen or a permanent resident, as discussed in Subsections b and c, below.

#### **a. Who Counts as a Child**

Some of the visa possibilities for your children will depend on a biological parent-child relationship between your new citizen or permanent resident spouse and your child. Luckily, immigration law also recognizes certain nonbiological parent-child relationships, and includes the following as "children."

- Your children who have become the stepchildren of your petitioning spouse, as long as your marriage took place before the child turned 18. Children who were born out of wedlock or legally adopted by you will qualify.
- Children born to unmarried parents. This provision might come in handy if you and your spouse had a child before you were married, but the child doesn't qualify as your spouse's stepchild because the marriage took place after the child's 18th birthday. If your petitioning spouse is the child's mother, the case is handled just like any other. If the petitioner is the child's father, however, he will have to prove that he was the biological father, and either had a bona fide (real) relationship with the child before the child turned 21 (such as living together or financial support), or took legal steps to formally "legitimate" the child before its 18th birthday. At the time of legitimation, the child must have been in the legal custody of the father.

### **b. Children's Visa Eligibility If Your Spouse Is a U.S. Citizen**

If your spouse is a U.S. citizen and your unmarried children under 21 are his or her biological children or legal stepchildren, they qualify for green cards as his or her immediate relatives. Immediate relatives are given high legal priority, with no quotas or waiting periods to slow their receipt of a green card. Their green card should be approved at the same time as yours (provided they remain unmarried).

If any of your children marry before they receive their visa or green card, they will automatically drop into category 3 of the Visa Preference System, which is subject to even longer waiting periods than category 1. (For more details, see Chapter 6 and Chapter 16, Section D, "Sponsoring Other Family Members.")

Turning 21 no longer hurts your children's visa or green card applications. (Formerly, they would have dropped into category 1 of the Visa Preference System, but that was changed with the Child Status Protection Act of 2002.) As long as a child was under 21 when the visa petition was filed, the child will still be considered an immediate relative even after turning 21.

### **c. Children's Visa Eligibility If Your Spouse Is a Permanent Resident**

Your children who are unmarried and under age 21 are considered derivative beneficiaries. As a practical matter, this means that your children won't need a separate initial visa petition in order to be included in your immigration process. Unlike many other applicants, they also won't need to prove that your spouse is their parent or even stepparent, because they are riding on your application. (Eventually, however, they will have to fill out some forms of their own.) They will share your place on the visa/green card waiting list, and most likely get a visa at

the same time as you (provided they remain unmarried).

Your children who have gotten married will not be able to immigrate to the United States at the same time as you. They will have no visa options until your spouse becomes a U.S. citizen and files a visa petition for them in category 3 of the Visa Preference System (which has a very long waiting period). Of course, to do this, your spouse would have to prove that he or she is the child's legal stepparent or biological parent.

Another issue to be aware of is how turning 21 will affect your child's eligibility for a visa or green card. If your child turns 21 before his or her Priority Date has become current, the child will "age out," or drop into a lower Visa Preference category (2B), with a longer waiting period. For children whose Priority Date becomes current before they turn 21, the news is better—due to the Child Status Protection Act of 2002, they can keep their 2A status—but there's a catch. The child who has turned 21 must submit his or her green card application within a year of when the Priority Date became current—just another good reason to keep a close watch on the *Visa Bulletin*.

For more details on how your children could move between visa categories, see Chapter 8 or 12, below, depending on which chapter matches your situation. Also see Chapter 16, Section D, "Sponsoring Other Family Members."



**If your spouse becomes a U.S. citizen, the picture changes.** You will need to review

Subsection 4b, above, to determine your children's visa eligibility.



At this point you should know whether you are eligible to apply for a marriage or a fiancé visa. If you are, read Chapters 3 and 4 before turning to the chapter that explains your application process in detail.







## Meeting Income Requirements

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Not everyone marries a millionaire, unfortunately (or not). Before any fiancé or spouse can immigrate, the U.S. citizen or permanent resident half of the couple must reveal their financial situation to the immigration authorities. The purpose is to show that the petitioning fiancé or spouse has enough money to support the immigrant and to prevent him or her from becoming a public charge (the fancy term for going on welfare). Any immigrant who appears likely to rely on welfare or other publicly funded programs that support poor people is inadmissible. Requiring this showing of financial support is a way of testing the immigrant's admissibility.

Every U.S. fiancé or spouse petitioning for an immigrant must fill out a government form called an Affidavit of Support. By filling out this form, your fiancé or spouse becomes what is known as your sponsor. As you'll see, however, additional people can also serve as your financial sponsors.

A number of fiancé and green card applications are held up over the issue of whether the U.S. half of the couple can financially support the immigrant. The government has a very specific idea of how much money it takes to support someone. But even if your fiancé or spouse fills out the Affidavit of Support in a manner that shows that his or her income and assets meet this government-established minimum, the consulates and USCIS have the power to look at the bigger picture and decide that you are likely to become a public charge anyway. For example, your application could be denied if you have chronic health problems, are elderly, or your fiancé or spouse's income barely meets the minimum and you appear to be unemployable.



**Married U.S. citizens with long work histories and long marriages may be able to avoid filling out an Affidavit of Support (Form I-864).** The reason is that their obligations to act as sponsors end after the immigrant has worked 40 quarters (about ten years)—but, in an interesting twist, immigrants can be credited with work done by their U.S. citizen spouses while they were married. So, if your U.S. citizen spouse has worked 40 quarters in the U.S. during your marriage, he or she need not fill out Form I-864. Though it's the rare married couple who will have gone this many years without applying for a green card, this exception is highly useful for those to whom it applies.

## A. Meeting the Minimum Requirements

The minimum requirements for green card (not fiancé visa) applicants are determined according to the U.S. government's *Poverty Guidelines* chart, reproduced below and found at the back of Form I-864. But fiancé visa applicants should examine this chart as well, because some consular officers use it at the fiancé-visa stage, knowing that the chart will apply to fiancés later when they apply for their green cards. Other officers, on the other hand, may simply apply the “eyeball” test for fiancés—if you look young and healthy, you're in.



### **The *Poverty Guidelines* chart changes annually.**

The federal government updates its version of what constitutes poverty in February or March of each year, and the immigration authorities start to follow it two months later. When you attend your visa or green card interview, you will have to meet the most current guidelines.

## 1. How to Read the *Poverty Guidelines* Chart

The sponsor's income and assets must be enough to support the people who depend financially on the sponsor (also called household members or dependents), at 125% of the income level that the government believes puts a person into poverty. An exception is made for members of the U.S. Armed Forces, who need only reach 100% of the *Poverty Guidelines* levels.

To count the dependents who must be covered, add up the following:

- the sponsor
- the currently entering immigrant or immigrants (if children are also applying)
- any other immigrants for whom the sponsor has signed an I-864, and
- all family members (by birth, marriage, or adoption) living in the sponsor's household (even part time, if they're children from a divorce) or listed as dependents on the sponsor's tax return.

Once you have calculated the number of household members and dependents, refer to the *Poverty Guidelines* chart. In the far left column, locate the line showing the number of people for whom the sponsor is responsible. Then look to the far right column to find how much the sponsor must show in income and assets.

Assets are only counted at one fifth of their current market value after subtraction of debt liabilities, mortgages, and liens. Assets must also be readily convertible into cash (within one year). For example, if the sponsor owns a luxury house with major structural

damage, there may not be a market for the house because no one wants to buy it. USCIS may decide that, even though the sponsor paid a million dollars for the house, this asset doesn't count—because it cannot be converted into cash within one year.



**Job offers with anticipated salaries don't count.**

If you are applying for your fiancé or immigrant visa from overseas, a job offer with a set salary in the United States might help a little, but due to recent legal changes it won't make up for a shortfall in your sponsor's ability to meet the *Poverty Guidelines* minimum.

## 2004 Poverty Guidelines\*

### Minimum Income Requirement For Use in Completing Form I-864

**For the 48 Contiguous States, the District of Columbia, Puerto Rico,  
the U.S. Virgin Islands, and Guam:**

<u>Sponsor's Household Size</u>	<u>100% of Poverty Line</u> For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child.	<u>125% of Poverty Line</u> For all other sponsors
2	\$12,490	\$15,612
3	15,670	19,587
4	18,850	23,562
5	22,030	27,537
6	25,210	31,512
7	28,390	35,487
8	31,570	39,462
	Add \$3,180 for each additional person.	Add \$3,975 for each additional person.

<b>For Alaska</b>			<b>For Hawaii</b>	
<u>Sponsor's Household Size</u>	<u>100% of Poverty Line</u> For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child	<u>125% of Poverty Line</u> For all other sponsors	<u>100% of Poverty Line</u> For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child	<u>125% of Poverty Line</u> For all other sponsors
2	\$15,610	\$19,512	\$14,360	\$17,950
3	19,590	24,487	18,020	22,525
4	23,570	29,462	21,680	27,100
5	27,550	34,437	25,340	31,675
6	31,530	39,412	29,000	36,250
7	35,510	44,387	32,660	40,825
8	39,490	49,362	36,320	45,400
	Add \$3,980 for each additional person.	Add \$4,975 for each additional person.	Add \$3,660 for each additional person.	Add \$4,575 for each additional person.

\* These poverty guidelines remain in effect for use with the Form I-864 Affidavit of Support from April 1, 2004 until new poverty guidelines go into effect in the Spring of 2005.

## 2. Special Advice for Fiancé Visa Applicants

Each consulate has the power to set the income levels your U.S. citizen fiancé/sponsor must meet. An easygoing consulate might not use any standards except their own on-the-spot judgment. A tougher one might use the *Poverty Guidelines* minimum. There is no public source of information on the different consulate's standards. However, if your consulate is accessible to callers or visitors, you could try inquiring before your interview.

Whatever standard the consulate chooses, you will have to do your best to meet it. Once you're in the United States and applying for your green card, the standards will become more rigorous. Every immigrant will have to show that his or her sponsor can meet the *Poverty Guidelines* minimum (unless your spouse has already worked 40 Social Security work quarters in the United States, or about ten years, and you were married all that time).

If you're having trouble meeting the consulate's standards, one option is to have another family member or friend in the United States agree to serve as a joint sponsor. A joint sponsor is someone who agrees to share responsibility for your financial support with your primary sponsor, up to the full amount of your support. In other words, if your sponsor can't support you, the joint sponsor can be held 100% responsible for your support—the joint sponsor is not allowed to choose a percentage or limit on how much he or she will support you. Joint sponsors can indicate their willingness to help support you by signing an Affidavit of Support on Form I-134 (different from the Form I-864 used by green card applicants).

Both the advantage and the disadvantage of the Form I-134 Affidavit of Support is that it is not considered to have much legal weight. In other words, although the government could take a sponsor to court to enforce it, they never seem to do so—probably because they realize they wouldn't win. That's an advantage because it allows you to easily persuade someone to sign the form, without endangering his or her financial future. It's also a disadvantage—since the consular officials know that the affidavit is hardly worth the paper it's written on, they

may disregard the joint sponsor. For this reason, if you go the joint sponsor route, you might want to supplement the person's affidavit with a letter or a sworn statement expressing his or her heartfelt commitment to supporting you.

Once you are in the United States, you will be eligible for a work permit. This is your chance to overcome the need for a joint sponsor before your actual green card application—which is only fair to your joint sponsor. The Affidavit of Support that the joint sponsor would have to file for the green card application is on a different form—Form I-864—and this one is considered legally binding. In fact it's so binding that if you became disabled or got divorced, the joint sponsor would have to continue supporting you, possibly for several years. Once the joint sponsor hears this, they may not be willing to sign the I-864. But even if they are, it's highly preferable for you to find a job that will bring your and your new spouse's joint income up to a level that will qualify you for the green card on your own.

## 3. Special Advice for Green Card Applicants

Before exploring your options for meeting the *Poverty Guidelines* support levels or any higher level required by USCIS or a consulate, you need to understand more about the legal implications of the Form I-864 Affidavit of Support. If you can bear it, you should also try reading all the instructions that come with the form.

### a. The Sponsor's Obligations

The Form I-864 Affidavit of Support is a legally enforceable contract, meaning that either the government or you, the sponsored immigrant, can take the sponsor to court if the sponsor fails to provide adequate support for you. When the government sues the sponsor, it collects enough money to reimburse any public agencies that have given public benefits to the immigrant. When the immigrant sues, he or she collects cash support up to 125% of the amount listed in the U.S. Government's *Poverty Guidelines* (as shown in the chart in Form I-864).

The sponsor's responsibility lasts until the immigrant becomes a U.S. citizen, has earned 40 work quarters credited toward Social Security (a work quarter is about three months, so this means about ten years of work), dies, or permanently leaves the United States.

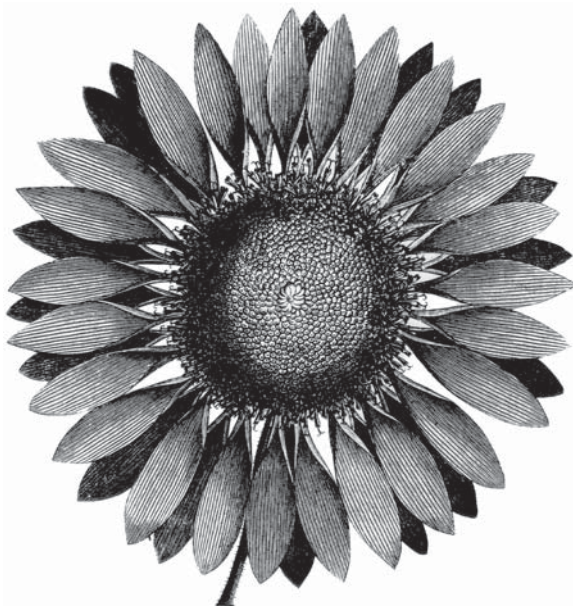


**A sponsor remains legally obligated even after a divorce.** Yes, a divorced immigrant spouse could decide to sit on a couch all day and sue their former spouse for support. The sponsor may wish to have the immigrant sign a separate contract agreeing not to do this, but it's unclear whether courts will enforce such a contract.

## b. Who Can Be a Sponsor

Your spouse and/or additional sponsor(s) must meet three requirements to be a sponsor. Each sponsor must be:

- a U.S. citizen, national, or permanent resident
- at least 18 years of age, and
- live in the United States or a U.S. territory or possession.



**Kansas**  
State Flower: Sunflower

As a practical matter, of course, the sponsor will have to be in good shape financially to get you into the country. Even if your spouse's income and assets are lower than the *Poverty Guidelines* demand, however, he or she must sign an Affidavit of Support—but will have to look for additional sponsors to help you immigrate.

Take particular note of the third requirement if the two of you are presently living overseas. Your sponsoring spouse will have to return to the United States by the time Form I-864 is submitted, either by mail or at the consular interview. The other option is to find someone living in the United States who is willing to sign a separate Affidavit of Support as a joint sponsor.



## **Sponsors who try to run away will face fines.**

The government has anticipated that some sponsors might try to escape their financial obligation by simply moving and leaving no forwarding address. That's why the law says that the sponsor must report a new address to USCIS on Form I-865 within 30 days of moving. If that does not happen, the sponsor will face fines of between \$250 and \$2,000; or \$5,000 if the sponsor knows the immigrant has collected benefits.

If your sponsoring spouse can't meet the required income level on his or her own, there are other possibilities. You may be able to enlist the help of members of your sponsor's household, as explained below in Subsection c. Or, you may find someone independent of the sponsor's household, as explained in Subsection d.

## c. How Household Members Can Help Out

If your spouse cannot meet the financial minimum on his or her own, the first step is to see if another member of his or her household is willing to include their own income and assets in the calculation. A household member is someone who:

- was listed as a dependent or joint filer on the sponsor's latest tax return (in which case they don't have to actually live in the sponsor's house), or



- has lived in the sponsor's home for the last six months and is related to the sponsor by birth, marriage, or adoption.

The household member agrees to support the immigrant by signing a supplemental Form I-864A. One nice thing about using a household member's income is that it only has to be enough to make up the shortfall in the main sponsor's income (see examples below). However, the potential household joint sponsors should realize that if for any reason the main sponsor doesn't support the immigrant, they can be called upon for the full support amount. (The form itself supposedly warns the signer with the following legal jargon: "I, the Household Member, ... Agree to be jointly and severally liable for payment of any and all obligations owed by the sponsor ....") This is where the immigrant really does need a fairy godmother—it's a lot to ask someone to sign onto such a long-term, substantial legal obligation.

**EXAMPLE:** Lara is a U.S. citizen, sponsoring her husband, Dr. Z, who will be immigrating from Russia. Lara lives with her elderly mother and two adopted children. That means that Lara has to prove she can support a total of five people. For five people, the 2004 *Poverty Guidelines* chart mandates that she show \$27,537 in income and assets. Lara earns \$20,000 a year as a translator and has no assets, so she's \$7,537 short. Will she and Dr. Z be parted forever? Not if:

- Lara's mother (who is a household member) has an emerald ring that she could sell within a year for \$37,685 (five times the shortfall of \$7,537) or more, and Mom is willing to sign an I-864A; or
- One of Lara's adopted children works, he happens to earn \$7,537 (or more) a year, and he is willing to sign a Form I-864A.

Immigrating spouses who live in the United States and are eligible to apply for Adjustment of Status have an advantage over those coming from overseas. Their income can be counted along with their spouse/sponsors' if they have been living in the same household for the six months prior to their Adjustment of Status interview. It's as if they were another household joint sponsor. (They also won't need to sign

Form I-864A unless they are agreeing to support children who are immigrating with them.) In fact, USCIS will permit you to file an Affidavit of Support with your green card application in which your spouse's income doesn't yet reach the *Poverty Guidelines* minimum. This gives you all the months until the interview to get a job and bring the household income up to the required level.

**EXAMPLE:** Luciano is living in the United States with his U.S. citizen spouse Sally. When they file Luciano's application to adjust status with USCIS, Sally's income and assets do not reach the *Poverty Guidelines* minimum. However, after filing the application, Luciano gets a work permit. He then gets a job that brings his and Sally's household well over the *Poverty Guidelines* minimum, and at his Adjustment of Status interview, he is approved for a green card.

Even if the immigrant hasn't been living in the sponsor's household, the immigrant's assets (but not income) can be added to the pot as well (again, minus debts, mortgages, and liens and at one fifth the assets' value).

**EXAMPLE:** Now assume that Dr. Z from the earlier example has a country house outside of St. Petersburg on which he owes 800,000 rubles (or \$50,000 in U.S. dollars). He could sell it within a year for the U.S. equivalent of \$87,685. Subtracting the \$50,000 debt, this gives him \$37,685, which conveniently enough, is five times the shortfall of \$7,537. Dr. Z's contribution of assets would serve to make Lara's Affidavit of Support sufficient under the *Poverty Guidelines* requirements.

#### d. How an Independent Joint Sponsor Can Help Out

If no one in the sponsor's household can help boost the sponsor's income and assets, you can look for a joint sponsor outside the household. This person needs to meet the basic sponsorship requirements

as explained above in Subsection a. An independent joint sponsor must also be pretty well off financially.

Unlike household joint sponsors, joint sponsors from outside the household will need to earn enough to cover the entire *Poverty Guidelines* minimum requirement for their own household *and* for the incoming immigrant or immigrants (if children will also be coming). The joint sponsor cannot simply make up the main sponsor's shortfall. It's as if they were the only sponsor. In fact, they must sign a separate Form I-864 Affidavit of Support. Like the household joint sponsor, an independent sponsor can be held 100% responsible for supporting the immigrant.

Although independent joint sponsors must meet the entire *Poverty Guidelines* minimum on their own, they at least will not be responsible for supporting people in the immigrant's household other than the immigrant(s). To meet the *Poverty Guidelines* requirements as a joint sponsor, don't just add up the number of people in the two households. Instead, add only the number of people in the joint sponsor's household plus the number of new immigrants.

**EXAMPLE:** Imagine now that Dr. Z has a long-lost cousin, Leonid, who's an unmarried U.S. citizen, age 32, living in Seattle, who claims his parents as dependents. The cousin earns \$34,000 a year from his espresso cart. The cousin is willing to sign a separate Form I-864 as a joint sponsor on Dr. Z's behalf. The minimum Leonid would have to earn to be a joint sponsor according to the *Poverty Guidelines* would be \$23,562, to cover himself, Dr. Z, and his (Leonid's) parents. Leonid qualifies as a joint sponsor.

If the immigrant is also bringing in children to the United States, a last resort might have to be to leave some or all of the children behind for the moment. Once the immigrant arrives and begins earning an income, he or she (or potentially his or her spouse) can petition to bring the children over—and will be able to use his or her income to meet the minimum requirements.

**EXAMPLE:** Imagine that Dr. Z has two children from a previous marriage. They raise the minimum amount Lara must earn to \$35,487 (for seven people in total). If she cannot reach that level or find someone to sign on for joint sponsorship, Dr. Z may have to leave his children behind for now. Once he gets established in the United States and begins earning income, Lara can petition for the children separately (as stepchildren, so long as her marriage took place before the children turned 18), using Dr. Z's new U.S. income to meet the shortfall. (They'll need to make sure the children aren't about to turn age 21 and fall into another visa category; see Chapter 8 or 12 for details.)

#### e. Should You Ask Family Members to Help?

The reaction of many applicants with inadequate financial resources is to ask another family member to pitch in and sign an additional Affidavit of Support (Form I-864). Think long and hard before doing this—and advise your family member to consult a lawyer before signing.

The Affidavit of Support is a binding, long-term contract, with ramifications the signer might not immediately realize. For example, the cosponsor will be obligated to continue supporting the immigrant spouse even if the couple divorces, or to support the immigrant in the event that the immigrant has a disabling accident. Even if these U.S. family members love and want to support the incoming immigrant, having to either support the immigrant directly or reimburse the U.S. government for large sums of welfare or public assistance money probably won't be a satisfying way of expressing that love. Try to keep your family members off the hook as much as possible.

## Why Most I-864s Don't Pass Muster

The National Visa Center, which reviews the Forms I-864 of numerous applicants coming from overseas, estimates that a whopping 80% of the I-864s submitted fail to pass the first clerical review. That means they are sent back to the sponsor for another try. The reasons are listed below in the order of most frequently encountered problems. Notice that they primarily involve missing information or documents. These are deficiencies that you can avoid with careful preparation.

1. Missing or incomplete W-2 forms: 30%
2. Missing or inappropriate proof of current employment or business letter/license: 25%
3. I-864 or I-864A filled out by wrong person: (for example, a household member filled out an I-864 instead of an I-864A): 15%
4. Missing or incomplete tax information: 10%
5. Incomplete (blank line or box) or incorrect information on the form: 10%
6. Inaccurate number of accompanying derivatives in Part 3: 3%
7. Total income on part 4D does not equal that on supporting evidence: 2%
8. Missing I-864A from household members whose income is used: 2%
9. Missing proof of U.S. status for joint sponsors: 1%
10. Missing supporting documents for assets: 1%.
11. Missing or inappropriate notarization: 1%.

Source: January/February 2001 *Immigration Law Today*, (American Immigration Lawyers Association) p. 63.



**This book does not discuss the availability of public benefits to immigrants.** Immigration law

is federal, and therefore it prohibits your receiving federal welfare or other benefits. But the immigration law doesn't prevent individual states from setting up special assistance programs, and indeed some states make limited medical care, pregnancy care, or supplemental food available to low-income immigrants. If you're facing severe economic problems, the best thing to do is contact a nonprofit that serves immigrants to see what help is out there and how you can make use of it without jeopardizing your immigration status. Contact your local USCIS for a list of approved nonprofits.

## B. Applicants Who Must Meet More Than the Minimum

The consulate or USCIS don't often ask you to show that your sponsor earns or owns more than the government's minimum requirements as announced in the *Poverty Guidelines*. (In fact, as mentioned earlier, applicants for fiancé visas may not even be asked for that much). However, certain immigrants



**Nebraska**

State Nickname: Cornhusker State



may have to produce sponsors who can exceed the minimum income requirement. Elderly applicants and those with severe health problems that might prevent them from working or result in large medical bills fall into this group. Finding additional sponsors as described in Subsections a and b, above, might be enough to help you overcome these added requirements. But if they're not, keep reading.

### Have a Backup Plan

You won't know whether the government will ask you for an unusually high level of proven income and assets until you're in the visa or green card interview. If you're caught by surprise, don't worry—they'll always give you more time to provide new or further evidence that you'll be supported. But there are a couple of advantages to advance planning if you know that your case is a marginal one.

One advantage, of course, is that having extra documents or affidavits on hand may shorten the time before your case is approved. Another is that cases that aren't approved at the interview tend to get greater scrutiny when they're evaluated later by the interviewers and their supervisors. If you're understandably reluctant to turn in an extra Affidavit of Support from a joint sponsor, you can always keep it in your back pocket and give it to the interviewer only if he or she tells you she'll need it to approve your case.

## 1. Medical Expenses of Ill or Elderly Immigrants

Though you may have heard news stories about the United States considering a system of national health insurance, such a system has never been adopted—which can create huge challenges for immigrant couples. Without insurance, medical care can be hideously expensive—a single hospital stay could turn anyone into an instant “public charge.”

The consulate or USCIS will learn of any significant health problems through the medical exam that is a required part of your application. Let's say that your medical exam shows that you have a kidney ailment and require regular dialysis. As you know from reading Chapter 2 Section A, applicants with communicable diseases (diseases that might infect others) may be excluded—but since a kidney ailment is not communicable, it does not make you inadmissible by itself. Someone with HIV or tuberculosis might be inadmissible because their illness could infect others. Still, the consulate or USCIS may ask to see proof of your spouse's health insurance coverage, such as a copy of the insurance policy itself, to assure them that you will not need publicly funded medical care for your kidney disease after you arrive in the United States.

If your spouse is employed, he or she stands a decent chance of having coverage (although even that cannot be counted on—more and more companies use temporary or contract workers, to whom they don't give health benefits). But even if your spouse is covered, that coverage may not include you; or it may not cover your existing health condition for a period of months; or it may require large “co-payments” (money contributions by you, the patient). With all of your best intentions of being self-supporting, you might indeed find yourself in need of government help.

## 2. Sources of Medical Coverage

If you are elderly or do have a serious health problem and your spouse doesn't have health insurance that will cover you, your spouse has a major research project ahead. He or she will have to locate a source of health insurance coverage within the United States that will not refuse you on account of your age or refuse to cover your pre-existing medical conditions. Such coverage is hard to find, and the premiums will be high. Also, be careful: Even a partial state government contribution to a plan that covers pre-existing conditions will lead USCIS or the consulate to deny your application on the grounds that you are receiving government support.

### **Applicants Who Have Already Received Government-Supported Medical Care in the U.S.**

Past receipt of government-supported medical care in the United States will not automatically be used to conclude that you are likely to be a public charge in the future. In particular, USCIS is sympathetic if you needed emergency medical treatment. USCIS will look at your whole situation and the likelihood of your needing further such care before it approves or denies your green card. However, you should consult an attorney for help in showing that you won't need similar medical assistance in the future.

## **C. Increasing Your Sponsor's Income to Meet the Minimum**

What if all of the above advice still isn't enough to get your spouse and cosponsors past the income requirement? Some couples don't have assets, household members, family, or friends that they can look to for financial support. To make up for financial shortfalls, the U.S. citizen spouse, or the immigrant if living in the United States, may have to find an additional job or a job with better pay and benefits.

Improving your financial situation may not be easy. It may mean moving to another city, dropping out of school for a while, or giving up enjoyable

work or time with the children. Luckily, after you are approved for your green card there is no obligation that you or your spouse stay with the new job. USCIS will not send inspectors to your or your spouse's workplace or check up on you. If you and your family can survive on less than the U.S. government thinks possible, that's your choice—so long as you do not go on welfare for the first five years after your green card approval. The way the law works, you wouldn't face any repercussions for post-approval reductions in your family's income until and unless you tried to apply for welfare. You would probably be denied the welfare benefits—or forced to pay them back later.

If you don't find out until your visa or green card interview that you can't be approved without showing more financial support, you will usually be given a time limit to send in new evidence. The time limit may approach all too quickly while your spouse looks for a better job, health insurance, or other source of family support. If the deadline is about to pass and you have nothing new to show, at least send a letter saying that you are still interested in pursuing your application. Ask for more time to provide the requested documents (you usually will not be re-interviewed). If you are in the United States, it is especially important to send such a letter, because once USCIS denies your application, it will transfer your case to the Immigration Court for removal proceedings. The consulates and USCIS will generally give you a total of six months to a year after your interview before they declare your application dead. ■

# The Right Way to Prepare, Collect, and Manage the Paperwork

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As you've probably figured out by now, you're going to have to collect and keep track of a lot of paperwork. This chapter will give you instructions on how to keep the paperwork organized, and how to make sure that all documents are of a type and quality that USCIS and the consulates will accept (Sections A and B). We also tell you how to locate and translate some of the documents that you'll need to support your application (Section C). And finally, Section D explains how to protect your application before you mail it from being lost by the U.S. government.

## A. Getting Organized

Start by setting up a good system to keep track of all the forms and documents that you'll need during this application process. There is no feeling worse than being in front of an impatient government official while you desperately go through piles of stuff looking for that one vital slip of paper. Take our word for it, you'll need a lot more than one jumbo folder.

We suggest using manila file folders and putting them in a box or drawer (or use a series of large envelopes or an accordion file). Label one folder or envelope Original Documents, for things like your birth certificate, marriage certificate, and USCIS or consular approval notices. Keep this file in a very safe place (such as a safe deposit box at your local bank). Be sure to remember to retrieve your originals in time to take them to your interview.

Label the other files or envelopes according to which packets, forms, or documents they contain. If you're applying for a green card within the United States, you might label one folder Visa Petition; another Adjustment of Status Packet; another Interview Materials (containing copies of the documents you'll want to take to your interview); and another Old Drafts/Copies. Similarly, if you're applying from overseas, one folder might be labeled Visa Petition, another Mailed to Consulate, another Affidavit of Support and Financial Documents, another Interview Materials, and the rest as described above.

## How Nightmarish Can It Get?

Maybe you'll turn in your application and everything will go like clockwork: USCIS and consular files all in order, approval received on time. Educating yourself about the process and preparing everything carefully certainly improves your chances. But we wouldn't be doing our job if we didn't warn you about how the government bureaucracy can chew up and spit out even the best-prepared application.

Every immigration lawyer has his or her favorite horror stories. For instance, there was the client whose visa petitions were lost by USCIS—so after many months, the lawyer filed new petitions and cancelled the checks that went with the lost ones. But USCIS then tried to cash the “lost” checks and to collect from the client for the bank charges when the checks bounced.

Then there was the woman who waited over six months for USCIS to approve her work permit—only to have them finally send her a work permit with someone else's name and photo. By the time that finally got straightened out, the work permit had expired and USCIS forced her to apply, and pay again, for a new one.

And let's not forget the woman who nearly got stuck outside the United States because USCIS refused to renew her Refugee Travel Document on the nonsensical grounds that she hadn't provided a valid address in the application. (She had, and it was the same address that USCIS had been using to correspond with her for years.)

What can you do about such absurd and Orwellian horrors? Mostly just know in advance that they may happen to you, leave time to deal with them, and keep copies of everything.

You should also keep a separate file for correspondence from USCIS or the consulate. Include in this file your handwritten notes on any phone conversations you've had with USCIS or consular personnel. Don't forget to write the date on your notes, so you can refer to them later in further correspondence.

As you're preparing your forms and documents, attach our checklists on the outside of each folder or envelope and check the boxes off as the items have been completed and put inside. When you've finished filling a folder or envelope, take out some of the old drafts or items you've decided not to use and move them to the Old drafts/Copies folder, so as not to clutter up the materials you'll take to your interview. Carefully write "final copy, mailed xx/xx/20xx" (you fill in the date) on the top of the copy of the application or petition you've mailed to USCIS or the consulate.

## B. How to Prepare USCIS and Consular Forms

Now, let's make sure the government doesn't return your forms for technical reasons. Follow these instructions for printing and filling out the forms.

### 1. How to Print the Forms

Most of the forms you'll need are provided as tear-outs as well as in a CD-ROM at the back of the book. However, when printing off the CD-ROM or downloading other forms from government websites, here are some things to keep in mind.

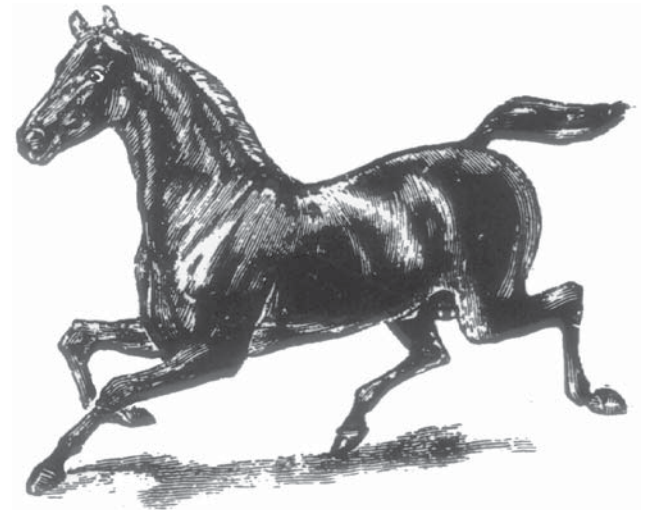
USCIS and the consulates used to be very choosy about how they wanted their forms printed out or copied. If you didn't use a form provided directly by the government, you were expected to reproduce it on the exact color paper, with the same orientation from front to back. If you printed the form out wrong, USCIS or the consulate would send it back to you.

Recently, however, the government said that it will ease up on these printing requirements, in recognition of the difficulty it causes people who

download forms from the government's websites. In theory, now you don't have to worry about what color paper to use, or the front-to-back orientation of two-sided forms. But this type of change happens slowly, and some government bureaucrats may still reject or overlook forms that don't match their idea of the correct way to print them. Because of this, our instructions with each form tell you exactly how it should be printed. To be safe, do your best to make any forms that you print yourself look like our description of the original form.

Most of the USCIS and consular forms are meant to be two-sided. For printing off the CD-ROM, you'll need to install and use software called Acrobat (instructions are with the CD-ROM). If you don't know how to use Acrobat to print out two-sided forms, please refer to your Acrobat help menu.

When our instructions say a form is meant to be "head to foot," that means that the second side should look upside down if you turned the page as you would a book. That's because USCIS and the consulates keep these forms in file folders clipped at the top, and they like to be able to lift the page



### Kentucky

State Horse: Thoroughbred

The Kentucky Derby is the oldest continuously run sporting event in America

from the bottom and have the back of it look right side up. Try this yourself and it will make sense. A few forms might need to be “head to head,” the more traditional way one sees things printed (like in this book).

When you print the forms, either from the CD-ROM or from a government website, you'll see that some of them print out many copies of the same page. This isn't a mistake. You're getting multiple copies of the same page because you're supposed to submit the page in triplicate, quadruplicate, or whatever (in other words, USCIS wants to receive multiple but identical copies). It may be easier for you to complete only one set, then make the required number of copies and attach them to the original.

If this seems like too much trouble and you want to get USCIS forms directly from them, the telephone order number is 800-870-3676. It usually takes a few weeks for the forms to arrive by mail. To download USCIS forms from their website, go to [www.uscis.gov](http://www.uscis.gov).

Consular forms can be obtained directly from the particular consulate only. Check the consulate's website via the State Department's website at [www.state.gov](http://www.state.gov) (under Travel and Living Abroad, click on More, then under Other Information click

on U.S. Embassy and Consulate Websites)—some consulates are starting to put their forms online.

## 2. Form Names, Numbers, and Dates

The government refers to its forms not by their name or title, but by the tiny numbers in the lower left or right corner. For example, if you look at the form in Appendix G entitled Petition for Alien Relative, you'll see I-130 there at the bottom. And because USCIS uses these numbers, we usually do, too.

Another thing you'll find in the corner is the date the form was issued. That's an important date, because once USCIS issues a later version (which they're doing a lot of these days), you'll usually need to use the later one. That means that for every form that we provide in this book, you should check the USCIS website before actually using and submitting the form. (Go to [www.uscis.gov](http://www.uscis.gov), and follow the “Forms and Fees” links until you find a list you can scroll down by form number.) After you have submitted the form, you can stop worrying—you won't need to redo it even if USCIS issues a new form before your application has been decided.

Example of a Head to Head Form

Example of a Head to Foot Form



### 3. Instructions That Come With the Forms

USCIS provides instructions with each form. Save yourself a little postage and don't send the instruction pages back to them when the time comes to submit your application. USCIS wants only the part of the form you fill in. Sadly, the instructions are often hard to understand (that's why we wrote this book) and at times they even contain information that is wrong or misleading (which we point out whenever possible).

### 4. Filing Fees

Many of the immigration forms require you to pay a fee in order to file them. (No, you can't get your money back if your case is not approved.) Don't go by the fees listed on the USCIS form instructions; they're often out of date. The current fees are supplied in this book, including a summarized list of the ones relevant to you, in Appendix A. You should also double check the fees at the USCIS website at [www.uscis.gov](http://www.uscis.gov), or call their information line at 800-375-5283.

### 5. Typing or Ink?

This isn't the time to express your individuality with purple ink. Fill in all immigration forms using a typewriter or, if you must prepare them by hand, use black ink.

### 6. Inapplicable Questions

If a question just doesn't fit your situation, write "N/A" (not applicable) rather than leaving the space blank. Or, if the answer is "none," as in "number of children," answer "none." Try not to mix these two up—it irritates the government officials reading your application. But if you're not sure how or whether to answer a question, seek skilled legal help (Chapter 17 gives you information on finding a good lawyer).

### 7. Tell the Truth

There will be many temptations to lie in this process—to hide a ground of inadmissibility, ignore a previous marriage, or avoid questions about previous visits to the United States, for example. But lying to the government can get you in bigger trouble than the problem you are lying about. And you've never seen anyone angrier than a USCIS or State Department official who discovers that you've lied to them.

If you feel you just can't complete the form without hiding a certain piece of information—or you really don't know how to answer or explain a key question—see a lawyer. The lawyer may be able to show you how to be truthful in a way that doesn't risk having your application denied.

### 8. What's Your Name?

The easiest thing on a form should be filling out your name, right? Not in this bureaucratic morass. USCIS will want not only your current name, but on certain of its forms, "other names used." Here are some important things to get straight before you start writing your name(s) in the forms to follow:

- **Married name.** If you've just married and changed your last name as part of your marriage, use your married name. But women shouldn't feel pressured into taking on a married name for the sake of the green card application. By now USCIS is well aware that not all women change their name when they marry. They will not look upon keeping your name as a sign that your marriage is a sham. Nor does having different last names seem to cause any confusion in the processing of your application (after all, USCIS thinks of you as a number, not a name).
- **Current name.** When your current name is requested, it is best to insert the name you currently use for legal purposes. This will normally be the name on your bank account, driver's license, and passport. If you've always gone by a nickname (for example, your name is Richard but you always use the common nickname "Dick"), it's okay to fill in the appli-

cation as “Dick,” as long as you list “Richard” where the form asks for other names used. This will avoid confusion when USCIS compares your application form with the accompanying documents (your employer, for example, will probably write a letter saying “Dick worked here . . .”). But there’s no way to avoid a little confusion, since your birth certificate will still say Richard.

- **Legal name changes.** If you’ve actually done a court-ordered legal name change, include a copy of the court order, to help dispel some of the inevitable confusion. If you have changed your name without a court order (by simply beginning to use a different name and using it consistently, which is legal in many states) and you use your changed name for all legal purposes, list it as your current name.
- **Other names.** The category for “other names used” could include nicknames. USCIS will want to know about nicknames that might have made their way onto your various legal documents (or criminal record). You should also include names by which you have been commonly known, especially as an adult. However, “pet” names such as “sweetie-pie” need not be included. Nor should unwanted childhood nicknames. For example, if your name is Roberto Malfi but your oh-so-clever high school buddies called you “Mafia,” best forget about it.
- **Previous married names.** If you have been married previously, don’t forget to list your name from that marriage in the boxes requesting other names used.

## 9. Be Consistent

As you might have guessed from the previous section, it’s important not to cause confusion when filling out the forms. At worst, not getting your facts straight can cause the person reviewing your application to think you cannot be believed. If, for example, you live with your parents but sometimes use a friend’s address to receive mail, make up your mind which address to use and then stick to it.

## C. How to Obtain Needed Documents

You would be lucky if forms were the only paperwork you had to worry about—but no, there are documents, too. At a minimum, you are going to need your birth certificate to complete your visa or green card application. You will also need your marriage certificate, if you’re past the fiancé stage. You may also need other documents, such as death or divorce certificates and your spouse’s birth certificate or U.S. passport.

When it’s time for your visa or green card approval, you will need a passport from your own country (either to travel to the United States or to hold a stamp showing your residence status). If you get married in your home country and you change your name, make sure your passport is either updated or is still considered valid with your maiden name in it.

Within the United States, official copies of birth, death, marriage, and divorce certificates can usually be obtained from the Vital Records office (called the Registrar’s or Recorder’s office in some areas) of the appropriate county or locality. Even if you already have your own copy of these items, it’s a good idea to request a copy from the Vital Records office. That’s because your copy may not have been given all the official governmental stamps necessary for USCIS to accept it as authentic. You can find more details on the National Center for Health Statistics website at [www.cdc.gov/nchs](http://www.cdc.gov/nchs). (Look under the Top Ten Links heading, and click “Help obtaining birth, death, marriage, or divorce certificates.”) Or, check the blue pages of a U.S. phone book.) There are also services that will order your vital records for a small fee, such as [www.Vitalchek.com](http://www.Vitalchek.com).

U.S. passports are available to U.S. citizens through the State Department; see [www.state.gov/passport\\_services.html](http://www.state.gov/passport_services.html) or the federal government pages of a U.S. phone book.

Outside of the United States, records should be obtained from official, government sources wherever possible. The sources that USCIS and the State Department consider acceptable are listed in the State Department’s *Foreign Affairs Manual* (FAM), accessible at [www.state.gov](http://www.state.gov). (Oddly enough, the State Department website buries this part of the FAM amid a



separate section on visa reciprocity fees. You'll need to click "More" under the Travel and Living Abroad heading, then under Other Information click "More" again, then scroll down under the Services heading until you find Visa Reciprocity Tables. After clicking that link, you'll access information about the country you're interested in using an alphabetical index.) U.S. law libraries may also be able to locate copies of the FAM for you.

In the FAM, you can discover such fun (and relevant) facts as that the Ascension Islands don't grant divorce certificates because of the lack of a supreme court, and that the place to obtain vital documents in Lithuania is called the Marriage Palace. If you are overseas and do not have Web access, talk to your local U.S. consulate about what form of record will be acceptable, particularly if you need to document an event for which your government does not issue certificates.

## 1. Translate Non-English Documents

If the documents you are submitting are in a language other than English, you will need to submit both a copy of the original document and a certified, word-for-word translation (summaries are not acceptable). This is particularly true if you're submitting the document to a USCIS office; consulates can often deal with documents that are in the language of that country (their instructions will usually tell you if they can't).

There is no need to spend big bucks to obtain certified translations. Any trustworthy friend who is fluent in English and the language of the document and is not your close relative can do the certified translation. That person should simply type out the translated text, then add at the bottom:

I certify that I am competent to translate from [the language of the document] to English and that the above [identify the document and to whom it pertains] is a correct and true translation to the best of my knowledge and belief.

Signed: [translator's full name]

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Date: \_\_\_\_\_

If you prefer, you can hire a professional translator, who should also add the same certification at the bottom of the translation.

## 2. Substitute for Unavailable Documents

If you cannot obtain a needed document, USCIS may, under some circumstances, accept another type of evidence. For example, if your birth certificate was destroyed in a fire, USCIS may accept school records or sworn statements by people who knew you in its place to prove your date of birth.

USCIS instructions included with forms I-129F (for the fiancé visa petition) and I-130 (the immigrant visa petition) outline the other types of evidence that USCIS accepts. (See Appendix G containing the tear-out forms or the CD-ROM for instructions to Form I-129F and Form I-130.) If you substitute a new form of evidence for a missing document, you should also include a statement from the civil authorities explaining why the original document is unavailable.

## 3. Homemade Documents

One form of substitute document that you may need to use is a sworn declaration. For example, you might need to ask a friend or family member to prepare one affirming your date and place of birth. If so, emphasize to the person that fancy legal language is not as important as detailed facts when it comes to convincing an immigration official to

accept his or her word in place of an official document.

Someone could write, for example, “I swear that Francois was born in Paris in 1962 to Mr. and Mrs. Marti.” But it would be much more compelling for them to write, “I swear that I am Francois’s older brother. I remember the morning that my mother brought him home from the hospital in 1962 (I was then five years old), and we grew up together in our parent’s home (Mr. and Mrs. Xavier Marti) in Paris.”

The full declaration should be longer and contain more details than this example. The more details that are offered, the more likely USCIS or the consulate is to accept the declaration as the truth.

To start the declaration, the person should state his or her complete name and address, as well as country of citizenship. At the bottom of the declaration, the person should write:

I swear, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.

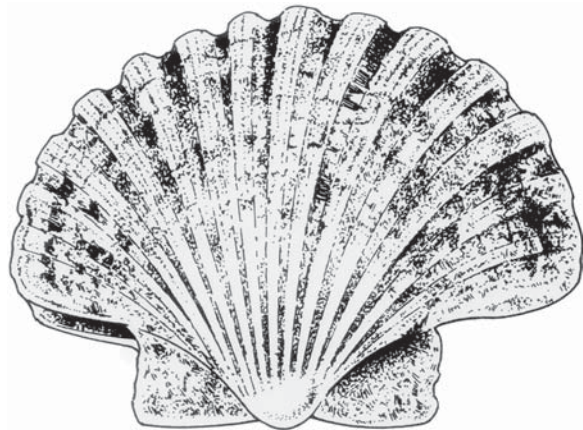
Signed: \_\_\_\_\_

Date: \_\_\_\_\_

If preparing sworn declarations seems like too much to accomplish, you could hire a lawyer for this task only. Below is a sample of a full sworn declaration, written to prove that an immigrant who is applying through marriage is no longer married to his first wife, due to her death. (Remember, when writing your own declaration, tailor it to your situation—don’t follow the wording of the sample too closely.)

Don’t confuse a declaration with an affidavit. An affidavit is very similar—a written statement that the author dates and signs—but it has one additional feature. Affidavits are notarized, which means that they are signed in front of someone who is authorized by the government to attest to, or certify, the

authenticity of signatures. When you bring a declaration to a notary, that person will ask for identification, such as your passport or driver’s license, to make sure that you are the person whose signature is called for on the declaration. You sign the declaration in the presence of the notary, who makes a note of this in his or her notary book. The notary also places a stamp, or seal, on your document. As you can see, affidavits are more formal and more trouble than simple declarations. An affidavit is not required for substitute documents such as we’re describing now—but if you want to make the document look more official, and know where to find a notary, you might want to take the extra trouble. If an immigration process described in this book requires an affidavit, we’ll alert you.



**New York**  
State Shell: Bay Scallop

### Affidavit in Support of Application of Guofeng Zheng

I, Shaoling Liu, hereby say and declare as follows:

1. I am a U.S. permanent resident, residing at 222 Rhododendron Drive, Seattle, WA 98111. My telephone number is 206-555-1212. I have been living in the United States since January 2, 1997.
2. I am originally from Mainland China, where I grew up in the same town (called Dahuo, in Suzhou province) as Guofeng Zheng.
3. I knew Guofeng's first wife, Meihua. I attended their wedding, and had dinner at their home several times. I also remember when Meihua fell ill with cancer. She was sick for many months before passing away on October 31, 1996.
4. I received the news of Meihua's death a few days later, in early November of 1996. I knew the doctor who had treated her, and he was very sad that his treatments had failed. I also attended Meihua's funeral on November 7th. Her ashes are buried in the local cemetery.
5. I am also aware that the municipal records office, where all deaths are recorded, burnt down in the year 2000. I myself had difficulty with this, when I tried to get a copy of my mother's birth certificate last year.

I swear, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.

Signed: Shaoling Liu

Date: August 4, 2004

## D. Before You Mail an Application

There are three rules to remember before you mail anything to USCIS, consulate, or other government office:

1. Make copies.
2. Mail your applications by a traceable method.
3. Don't mail anything that you can't replace.

We'll explain the reasons for these maxims—and how to follow them.

### 1. Make Complete Copies

When you've at last finished filling out a packet of required immigration forms, your first instinct will be to seal them in an envelope, pop them in the mail, and forget about them for awhile. That could waste all of your hard work.

Find a photocopy machine and make copies of every page of every application, as well as any photos, documents, checks, and money orders. This will help you recreate these pages and items if they're lost in the mail or in the overstuffed files of some government office. It may also help convince USCIS or the consulate to take another look for the lost items.

Always make photocopies on one-sided, 8½-by-11-inch paper. Some applicants have been known to try to create exact copies of things by cutting the image out of the full page of paper—creating, for example, a tiny photocopied green card. The government doesn't appreciate these minicopies.

By the same token, 8½-by-14-inch paper (or larger) doesn't fit well into the government's files—use a photocopy machine that will reduce your document image to 8½-by-11 inches, if possible.

### 2. Mail by a Traceable Method

In any government agency, things get lost. The sorting of newly arrived applications seems to be a common time for them to disappear. If this happens to your application, it can become important to prove that you mailed it in the first place.

In the United States, it's best to go to the Post Office and use certified mail with a return receipt for all your applications or correspondence with USCIS or the consulates. When you request a return receipt, you will prepare a little postcard that is attached to your envelope and will be signed by the person at USCIS or the consulate who physically receives your envelope. The postcard will be mailed to you, which will be your proof that the envelope was received. You can use this postcard to convince USCIS or the consulate to look for the application if it gets misplaced.

If you're mailing something from overseas, you'll have to find out the most reliable method. Unfortunately, courier services often don't work because they can't deliver to a post office box, and many USCIS addresses (in particular those of the Service Centers) are at post office boxes. You'll have to use regular mail if mailing to a P.O. box. Some Service Centers provide alternate addresses for mailing by courier.

### 3. If You Want It Back, Don't Send It

Many immigration applications require that certain documents be attached (paperclipping them to the form is fine). Some documents must be included in packets of forms you must file and others brought to interviews. Whatever you do, *don't send originals* to USCIS or the consulate.

Yes, we know some USCIS forms say that you are required to send original birth, marriage, naturalization and other certificates. This information is wrong and out-of-date. People who send originals run a serious risk of losing them. Instead, simply photocopy any document (as long as the original is the official version), and send the copy to USCIS or the consulate. The USCIS or consular officer will have a chance to view the originals when you bring them to your interview. (Of course, if they make a special request that you mail them the original, you'll want to comply—but make copies for yourself first!) It's best to add the following text, right on the front of the copy, if there's room:

Copies of documents submitted are exact photocopies of unaltered original documents and I understand that I may be required to submit original documents to an immigration or consular official at a later date.

Signature: \_\_\_\_\_

Typed or printed name: \_\_\_\_\_

Date: \_\_\_\_\_



## Overseas Fiancés of U.S. Citizens

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If you are not yet married, your intended spouse is a U.S. citizen, and you are living overseas, you will have a choice among visa options. Depending on your own preference or the length of time each will take to obtain, you can choose to pursue:

- a fiancé visa (for readers who won't marry until they come to the U.S.), explained in Section A
- a marriage-based visa (for readers who decide to marry overseas and then apply to come to the U.S.), explained in Section B, or
- a tourist visa (if you just want to marry in the U. S. and return home), explained in Section C.

This chapter explains these options in detail. In Section D, we'll help you decide which of the options noted above is best for you. If you decide to get married overseas, we'll send you on to Chapter 7, where the application process for a spouse of a U.S. citizen is explained. Or, if you decide that a quick trip to the U.S. for the wedding, followed by a return to your home country, is all that you need, we'll discuss the tourist visa process, though not in great detail (Section F). A great shortcut to the U.S., direct consular filing, is explained in Section E. And for those of you who are engaged to be married and want to come to the U.S. for the wedding, Sections G, H, and I give you the information you need to prepare the applications and obtain your fiancé visa.

## A. The Fiancé Visa Option

Since you are presently a fiancé, the most obvious option is the fiancé visa. If you need to review whether you would be eligible for a fiancé visa, see Chapter 2, Section B. A fiancé visa allows you to enter the United States, marry within 90 days, and apply for your green card in the United States. Your unmarried children under age 21 are eligible to accompany you.

There are no quotas or limits on the number of people who can obtain fiancé visas and subsequent green cards through marriage to a U.S. citizen. A fiancé visa usually takes from six to nine months to obtain—about half the time it takes to get a marriage-based immigrant visa, though more time than it takes to get a marriage-based nonimmigrant (K-3) visa, described below.

## 1. You Must Marry in the U.S.

A fiancé visa gives you no choice but to hold your marriage ceremony in the United States. In fact, you'll have to get married fairly quickly if you plan to go on to apply for a U.S. green card. Although technically you have 90 days to get married, waiting until the latter part of that time period is risky, because even after you're married, it may take weeks to get the all-important marriage certificate that you'll need to apply for your green card.

Couples often ask whether their overseas marriage really counts, or wonder why they can't just get married for a second time after entering on a fiancé visa.

Unfortunately, once you're legally married, no matter where the marriage took place, you no longer qualify for a traditional, K-1 fiancé visa.

You do have other options, however, assuming you're planning to apply for U.S. permanent residency. One is to apply for an immigrant visa to come to the U.S. as a married spouse (meaning you'd do all the paperwork overseas, and become a permanent resident upon your entry to the United States). Your second option is a new, hybrid one: You would apply for a new form of the fiancé visa called a K-3, available only to married persons, then finish your paperwork for a green card (through a process called "Adjustment of Status") after arriving in the United States. Both options are described further in Section B, below.



**Wedding ceremonies that don't result in legally binding marriages won't stand in your way.** If you don't feel right leaving home unmarried, see if you can arrange for a religious or other ceremony that won't be recorded or recognized by your country's civil authorities. USCIS does not recognize these as valid marriages. You will need to have a legal marriage in the United States once you get there.

## 2. The Green Card Application Will Be Separate

Fiancés wishing to live in the United States will need to apply for their green card within the 90 days that



they're allowed in the United States on the fiancé visa, using a procedure called Adjustment of Status. This application procedure usually takes at least a year to complete and involves even more paperwork than the fiancé visa. But once you are married, you will be able to stay in the United States until you get your green card.

## B. The Marriage-Based Visa Option

The second option is for you to get married outside of the United States, before applying for any visa. In that case you would be eligible to apply for either an immigrant visa or a nonimmigrant, K-3 visa (the fiancé visa adapted for use by married couples) as the immediate relative of your U.S. citizen spouse. If you need to review whether you would be eligible for a marriage-based immigrant visa, see Chapter 2, Section B. You would use your immigrant visa to enter the United States and become a U.S. resident

immediately. You would also use your nonimmigrant, K-3 visa to enter the United States, but you wouldn't be a permanent resident yet—you would be expected to complete the process by applying for Adjustment of Status in the United States.

There are no quotas or limits on the number of people who can obtain visas or green cards through marriage to a U.S. citizen. A marriage-based immigrant visa usually takes at least one year to obtain. Although the procedural steps are very similar to those for obtaining a traditional, K-1 fiancé visa, the application itself is somewhat more demanding.

A nonimmigrant, K-3 visa takes about six months to obtain. However, finishing up the process in the United States (getting approved for a green card) usually takes well over a year to complete, partly because you can't submit your Adjustment of Status application until you receive USCIS approval of a form called an I-130 visa petition that your spouse would have submitted at the same time as the forms that got you the K-3 visa—and USCIS approval of I-130s has been taking a year or more lately. Then, after you've gotten the approval notice and submitted it with your Adjustment of Status packet to a local USCIS office, you'll probably wait another year for an interview and decision.



**Consider using direct consular filing if you're planning on marrying before coming to the U.S.**

Section E, below, explains who is eligible.



**Rhode Island**

State Tree: Red Maple

## C. The Tourist Visa Option

A third option is available to fiancés who want to hold their marriage ceremony in the United States, but do not wish to live there after the ceremony. They can apply for a tourist visa at a local U.S. consulate. A tourist visa usually takes between a few days and ten weeks to obtain. However, using a tourist visa carries certain risks, primarily the possibility of being denied entry at the U.S. border. These risks are explained more fully in Section F, below.

## D. Choosing Among the Visa Options

Your choice of visa may be based simply on where you wish to hold your wedding. If your heart is set on marrying in the United States and remaining there, a fiancé visa is probably the most appropriate. If you would like to marry in the United States and return to your home country to live, either a fiancé visa or a tourist visa would be appropriate. If you would like to be married in your own country, or at least get the wedding out of the way before you embark on your immigration process, the marriage-based nonimmigrant K-3 visa option might be the one for you. If you're not in any hurry to get to the United States, and/or would prefer to have all your green card paperwork completed by the time you get there, then a marriage-based immigrant visa should suit you well.

### 1. Immigrant Visas Take the Longest to Get

Of all your visa options permitting you U.S. entry, you'll definitely wait longest for a marriage-based immigrant visa, because it represents the end of the road to permanent residence. Accordingly, the consular officers who decide your immigrant visa will have to review more than one set of paperwork, and you will have to go through various procedural hoops, before the visa can be approved. By contrast, both of your nonimmigrant visa possibilities—the K-1 fiancé visa and the K-3 adapted fiancé visa for married couples—are considered short-term visas. That means that they have fewer requirements than the marriage-based immigrant visa. Accordingly, there are fewer opportunities for a consular officer to delay your application for more information. Short-term visas also have fewer consequences for the U.S. government—the visa has a 90-day limit, the K-3 visa has a ten-year limit, and neither visa guarantees that you'll be approved for a green card. USCIS and the consulates know that they'll get a second look at you if and when you apply for the actual green card.

This doesn't mean that K-1 or K-3 fiancé visas are given out like free candy—in fact, the internal rules tell consular officers to give both types of fiancé visa applications almost as hard a look as marriage-based immigrant visa applications. Nevertheless, most attorneys find that USCIS and the consulates make smoother and quicker decisions on K-1 and K-3 fiancé, as opposed to marriage-based immigrant, visa applications.

In sum, if you plan to remain in the United States permanently and your main consideration is which visa will get you into the United States the fastest, getting married and using a K-3 nonimmigrant visa might be your best option. The exception to this recommendation would be if the U.S. consulate in your home country offers what is called Direct Consular Filing for spouses of U.S. citizens. This option isn't offered everywhere (see Section E, below).

Your next fastest option, but most appropriate if you'd prefer to remain unmarried until you arrive in the United States, is the traditional K-1 fiancé visa.



**If you have children between the ages of 18 and 21 who are not the natural children of your U.S. spouse-to-be, choose a fiancé visa (K-1 or K-3).**

Due to a strange twist in the immigration laws, children under 21 can accompany a fiancé on their visa, but only children under 18 can accompany a just-married spouse on an immigrant visa—if the U.S. citizen spouse is not the children's biological parent.

### 2. Fiancé Visa Applications Require Less Financial Support Information

The biggest difference between the nonimmigrant fiancé and immigrant marriage visa applications concerns your fiancé's ability to support you financially. Although fiancé applicants as well as marriage visa applicants must both prove that they'll be supported in the United States, fiancés do so using the Form I-134 Affidavit of Support. Form I-134 is fairly simple to prepare and is not considered legally binding—even if the government took you (the sponsor) to court to enforce it, it would probably lose.



By contrast, if you were applying for a marriage-based visa, your spouse would have to submit an Affidavit of Support on Form I-864. This form is several pages long, demands detailed financial information, and is legally binding. The U.S. government takes it seriously and scrutinizes it carefully. Problems with Form I-864 are a frequent cause of delays in approving immigrant visas. If you apply for a fiancé visa, you avoid submitting the Form I-864 until you are already in the United States (where it will be a required part of your green card application). Chapter 3 contains detailed explanations of the workings of Form I-864.

### **3. Fiancé Visas Involve More Paperwork**

If your primary concern is how much paperwork you'll have to deal with, you should know that getting a K-1 or K-3 fiancé visa adds an extra step to the green card application process compared to a marriage-based immigrant visa application. Even after you've gotten the fiancé visa and entered the United States, you'll have to prepare and submit another heavy round of paperwork for a green card, as much as if you'd just gotten married in the first place and applied for an immigrant visa through the U.S. consulate. And the green card application in the United States will probably take at least a year to be approved.

### **4. Problems Are Easier to Resolve With Fiancé Visas**

Once an application gets postponed overseas, things get difficult—neither your fiancé nor any lawyer whom you hire is going to have an easy time reaching the consular officials. The officials can get away with some fairly arbitrary behavior because of their isolation. This could, of course, also happen with your fiancé visa application, but because the process is shorter and easier, the chances are less.

## **E. The Fastest Option: Direct Consular Filing**

Before deciding which avenue you'll choose—a fiancé, marriage-based, or tourist visa—take a moment to read about the fastest way to the United States—Direct Consular Filing. Unfortunately, this method isn't available to all, but if you can use it, it's well worth considering.

One of the biggest delays in applying for marriage visas often occurs at the very beginning, when your spouse sends your initial visa petition to an office of U.S. Citizenship and Immigration Service (USCIS) in the United States. USCIS's decision approving or denying this petition can take several months—and this is only step one in the application process.

To avoid this delay, some people can use one of the best-kept secrets in immigration law: Direct Consular Filing, or DCF. This is a procedure in which a people who have married U.S. citizens can submit every bit of paperwork directly to the U.S. consulate in their home country. (Although technically your application can be decided by any consulate in any country, in reality most consulates other than the one in the country where you legally live will refuse to deal with yours.) With DCF, the consulate handles the visa petition and decides the immigrant's eligibility for a green card without requiring that any paperwork be handled by USCIS offices in the United States. In countries where DCF is offered, the entire application process can take as few as three months instead of a year or more.

DCF is not available worldwide and there is no list to tell you where it can be used. Check with your local consulate to see if they allow DCF and what limitations they place on it. The most common limitation is that the U.S. citizen spouse must be living in the country where the consulate is located. The instructions in this book assume that DCF is not offered in your country; but if it is, the paperwork for a marriage-based visa is the same. Simply talk to your local consulate about their procedures for receiving and deciding your application.



### Next Step

You want to get a K-1 fiancé visa and marry in the U.S.:

Continue on to Section G, below.

You want a tourist visa to hold a wedding in the United States and then return home:

Read Section F, below.

You want to get married overseas and apply for an immigrant visa or a K-3 nonimmigrant “fiancé” visa:

See Chapter 7.

## F. How to Use a Tourist Visa

If you only want to get married in the United States—but not live there—you can apply for a visitor or tourist visa, known as a B-2 visa. The application process is probably the easiest and fastest in the immigration law world. However, it carries certain risks.

First, there is the risk that you may unwittingly get the visa under false pretenses. You must make sure to tell the consular officer that you intend to use the visa in order to get married to a U.S. citizen. Otherwise, USCIS may later claim that you obtained the visa through fraud (pretending to be “only” a tourist), which can prevent you from getting a green card if you want one later.

Second, you could face problems at the U.S. border when you enter. Even after you’ve convinced the consular officer that your intention after marrying is to return to your home country, you’ll still have to convince the U.S. border official. If you get a reasonable official, this should be no problem—your use of a tourist visa is perfectly legal. If you get an official who is inclined to be suspicious, however, it’s another matter. The border officials can keep you out if they think you’ve used fraud to obtain the

visa, such as having lied about your intentions to return home after the wedding. Once you’ve been removed this way, you may be prevented from reentering the United States for five years. The border officials have reason to be suspicious, since many people have used tourist visas as a way to enter the United States precisely for the purpose of applying for a green card there.

To prepare for the possibility of meeting a skeptical border official, you can bring along some of the following to demonstrate your plan to return home (these are the same things you would have shown the consular officer in order to get the visitor visa):

- a copy of your lease or rental agreement
- a letter from your employer stating that you are expected back by a certain date, and
- copies of birth certificates from close family members remaining behind.

Also make sure there is nothing in your luggage to contradict this evidence. If your luggage is searched and the official realizes you are carrying enough prescription medication for a three-year stay and a letter from your fiancé saying, “Can’t wait until you are here and we can settle down in our new house,” you will find yourself on the next return plane.

We can’t decide for you whether it’s better to use a tourist or a fiancé visa if you’re only coming to the United States to hold your wedding and then leave. If you don’t like risk, and the cost of your plane ticket is high or will wipe out your savings, the fiancé visa might be more appropriate for you. With a fiancé visa, the border officer doesn’t have to worry about whether your secret intention is to remain in the United States and apply for a green card, because you would have every right, under the fiancé visa, to do just that. On the other hand, the fiancé visa takes much longer to get, and there is no way to remove every element of risk. Even with a fiancé visa, your entry to the United States depends on the perception and decision of a single border patrol official. It’s as simple as that.

## G. The K-1 Fiancé Visa Application Process

If you are reading this section, it means that you have decided that you want, and are eligible for, a fiancé visa. Let's get to the nuts and bolts of the fiancé visa application process—and what nuts and bolts they are. The amount of paperwork and the number of forms and appointments that you'll have to deal with can be daunting, bewildering, and frustrating. But countless other immigrants have made it through, and so can you.



**Don't be discouraged by mounds of paperwork—but do get it right.** Read Chapter 4 on how to organize yourself to make sure you keep good track of the paperwork involved in the visa process. This chapter also gives detailed instructions on how to enter the requested information.

Obtaining a K-1 fiancé visa involves three major steps:

- Step 1:** Your U.S. citizen fiancé submits a fiancé visa petition to USCIS.
- Step 2:** You fill out forms sent to you from the National Visa Center (NVC), and
- Step 3:** You fill out some more forms and present them at an interview at a U.S. consulate in your home country, where you receive your visa.

In rare instances, some couples have to attend a fraud interview if the government has doubts about their intended marriage being the real thing. This could happen either as part of Step One or after Step Three.

Below we describe, in detail, what happens at each of these steps.

### Stay Put During the Application Process

Once this process has started, you're better off if you don't change addresses or take any long trips. USCIS or the consulate could send you a request for more information or call you in for your interview at any time. Missing such a notification could result in long delays in getting your visa application back on track.

If you do change addresses, be sure to notify the last USCIS or consular office you heard from. But don't assume they'll pay attention. USCIS and the consulates are notorious for losing change-of-address notifications. So, as a backup plan, have your mail forwarded or check in regularly with the new people living in your former home.

Many couples wish that they could take a quick trip to the United States while waiting for the fiancé visa to be granted. Unfortunately, once you've submitted any part of your fiancé visa application, you're unlikely to be granted a tourist visa. This is because the consulate will likely believe that your real intention in using the tourist visa is to get married and then apply for your green card in the United States, which is an inappropriate use of the tourist visa and could be considered visa fraud.

### 1. Step One: The Initial Fiancé Visa Petition

The first person that the U.S. government wants to hear from in this process is your fiancé. He or she will be responsible for preparing what's called a fiancé visa petition. The purpose of this petition is to alert the immigration authorities that your fiancé is planning to marry you and that he or she is willing to participate in your visa application. You play a minor role at this step, but you should help your fiancé gather certain information and documents.

We'll go through how to prepare and assemble the various forms and documents, one by one. To keep track of them all, refer to the Fiancé Visa Petition Checklist, below. A few items on this checklist are self-explanatory, so they aren't discussed in the following text.

### a. Line-by-Line Instructions for K-1 Fiancé Visa Petition Forms

This section will give you precise instructions for filling out the forms that are listed on the Fiancé Visa Petition Checklist in Subsection e. Your U.S. citizen fiancé should be handling the original forms and paperwork, but should send you copies of the drafts to review and discuss. Whoever reads these instructions should also have a copy of the appropriate form in hand. Refer to Chapter 4 if you need to refresh your understanding of how to print and manually fill out an immigration form.



**Don't confuse your forms.** Form I-129F is the proper one to use for a fiancé visa petition. There is another USCIS form called simply I-129, without the letter F. It is completely different (and much longer), so don't confuse the two or you'll be sorry!

#### i. Form I-129F

Form I-129F is normally printed out double-sided, head-to-foot, on pastel pink paper.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. The first page of this form is shown below.

The first thing to notice about Form I-129F is that it runs in two columns. The left column, or Section A, asks for information about the U.S. citizen fiancé. The right column asks for information about you, the immigrating fiancé.

#### Part A

**Question 1:** The U.S. citizen fiancé must enter his/her last name (surname) in all capital letters, but the other name(s) in small letters. For example, if

your fiancé's name is Sam Lawrence Cole, he would enter "COLE" in the first box, "Sam" in the second box, and "Lawrence" in the third box. Always spell out the entire middle name.

**Questions 2-5:** Self-explanatory.

**Question 6:** Check only one box, and make sure it is not the one that says "married." At the moment, you can't be already married and use a K-1 fiancé visa.

**Question 7:** Don't let the phrase "including maiden name" throw you. (A maiden name is the woman's name before marriage; in many cultures, she takes the husband's name upon marrying.) You shouldn't yet be married to one another. (If you are married, you don't qualify for a K-1 fiancé visa and should instead be applying for a K-3 visa or an immigrant visa as an immediate relative (spouse). (See Chapter 7.) But if the U.S. citizen fiancé has had other names by previous marriages, include these here.

**Question 8:** Self-explanatory.

**Question 9:** There's a reason for these questions: the U.S. citizen fiancé's prior marriages must have ended before he/she is eligible to sponsor you. Make sure that under **Date(s) Marriage(s) Ended** he or she gives the date the divorce became final, not the date they split up housekeeping. USCIS will only accept a final divorce as proof that the marriage ended.

**Question 12:** If the U.S. citizen fiancé's citizenship was obtained through naturalization, the number can be found at the top right-hand side of the naturalization certificate. The date and place issued are also shown on the certificate.

**Question 13:** If the U.S. citizen has tried to or succeeded in sponsoring other fiancés, USCIS will surely take a look at those files to make sure there was no fraud involved. There's nothing automatic about their decision—after all, it's possible for a U.S. citizen to fall in love with more than one foreign-born person, and for the first marriage to end. But there are U.S. citizens who charge money to marry and sponsor noncitizens, and USCIS is on the lookout for them.

## Form I-129F, Petition for Alien Fiancé(e)—Page 1

U.S. Department of Homeland Security  
Bureau of Citizenship and Immigration Services

OMB No. 1615-0001: Expires 11/30/04

## I-129F, Petition for Alien Fiancé(e)

## DO NOT WRITE IN THIS BLOCK

## FOR CIS USE ONLY

Case ID #	Action Block	Fee Stamp
A #		
G-28 #		
The petition is approved for status under Section 101(a)(5)(k). It is valid for four months from the date of action.		
Remarks:		

AMCON: \_\_\_\_\_

☐ Personal Interview    ☐ Previously Forwarded  
☐ Document Check    ☐ Field Investigation

## Part A. Information about you.

## Part B. Information about your alien fiancé(e).

1. Name (Family name in CAPS) (First) (Middle)

2. Address (Number and Street) Apt. #  
   
 (Town or City) (State or Country) (Zip/Postal Code)

3. Place of Birth (Town or City) (State/Country)

4. Date of Birth (mmdd/yyyy) 5. Gender  
 ☐ Male ☐ Female

6. Marital Status  
☐ Married ☐ Single ☐ Widowed ☐ Divorced

7. Other Names Used (including maiden name)

8. Social Security Number

9. Names of Prior Spouses Date(s) Marriage(s) Ended

12. My citizenship was acquired through (check one)  
☐ Birth in the U.S. ☐ Naturalization  
 Give number of certificate, date and place it was issued.  
  
☐ Parents  
 Have you obtained a certificate of citizenship in your name?  
☐ Yes ☐ No  
 If "Yes," give certificate number, date and place it was issued.

13. Have you ever filed for this or any other alien fiancé(e) or husband/wife before?  
☐ Yes ☐ No  
 If "Yes," give name of alien, place and date of filing and result.

1. Name (Family name in CAPS) (First) (Middle)

2. Address (Number and Street) Apt. #  
   
 (Town or City) (State or Country) (Zip/Postal Code)

3. Place of Birth (Town or City) (State/Country)

4. Date of Birth (mmdd/yyyy) 5. Gender  
 ☐ Male ☐ Female

6. Marital Status  
☐ Married ☐ Single ☐ Widowed ☐ Divorced

7. Other Names Used (including maiden name)

8. U.S. Social Security # 9. A# (if any)

10. Names of Prior Spouses Date(s) Marriage(s) Ended

11. Has your fiancé(e) ever been in the U.S.?  
☐ Yes ☐ No

12. If your fiancé(e) is currently in the U.S., complete the following:  
 He or she last arrived as a: (visitor, student, exchange alien, crewman, stowaway, temporary worker, without inspection, etc.)  
  
 Arrival/Departure Record (I-94) Number  
           
 Date of Arrival (mm/dd/yyyy) Date authorized stay expired. will expire as shown on I-94 or

INITIAL RECEIPT \_\_\_\_\_ RESUBMITTED \_\_\_\_\_ RELOCATED: Rec'd. \_\_\_\_\_ Sent \_\_\_\_\_ COMPLETED: Appv'd. \_\_\_\_\_

Additional pages not shown.



**Part B:**

Now we're back to you, the fiancé.

**Questions 1-5:** Self-explanatory.

**Question 6:** Check only one box, and make sure it is not the one that says "married."

**Question 7:** See explanation, Part A, Question 7.

**Question 8:** You won't have a Social Security number unless you have lived in the United States; insert "N/A" if you don't have one.

**Question 9:** The Alien Registration Number or A-Number is an eight-digit number following the letter "A" (for "Alien") that USCIS (or the former INS) assigns to you. You won't have one yet unless you've previously applied for permanent or in some cases temporary residency, or have been in deportation/removal proceedings. If you have a number, you must enter it here.



**If your previous application was denied because you were inadmissible, or if you lied on that application, call a lawyer before going any farther.** See Chapter 17 for tips on finding a good attorney.

**Question 10 and 11:** These questions relate to the eligibility requirement that previous marriages must have ended through valid means such as divorce or death. See explanation of eligibility in Chapter 2, Section B.

**Question 11:** Self-explanatory.

**Question 12:** You can enter "N/A" here, since you are not in the United States.

**Question 13:** This refers to all your children, whether born of this relationship or a previous one.

**Question 14:** Hopefully your intended address in the United States is the same as that of your U.S. citizen fiancé, or USCIS will raise questions. Even if you will spend some time away from your married home, such as for school or work, you should consider your married home to be your permanent

address. If there is a compelling reason that you will have a completely separate residence, attach documents to explain why, or consult with a lawyer.

**Question 15:** Self-explanatory.

**Question 16:** If your native language uses a non-Roman script (for example, Russian, Chinese, or Arabic) you'll need to write your name and address in that script.

**Question 17:** If you and your fiancé are related by blood, you'll need to make sure that a marriage between you is allowed in the state (geographical) where you plan to marry. (See Chapter 2, Section B1, "The Legal Requirements for a Fiancé Visa.")

**Question 18:** You'll need to attach a page to fully answer this question; a sample is provided below. Note that this is also where you'd need to explain any reason why you need a waiver of the personal meeting requirement.

**Question 19:** Enter the name of the U.S. consulate with a visa processing office in your country; or if none exists, the one with power to handle visa requests from your country. (Don't worry too much about getting it wrong; the USCIS Service Center will redirect your application for you when it approves the petition). Also write "Please Cable" in this section, as an effort to speed up the Service Center's notification of the consulate after your petition is approved.

**Part C:**

Now the questions once again refer to the U.S. citizen petitioner, asking whether he or she has served in the military.

The U.S. citizen needs to sign and date the forms under the paragraph that starts **Your Certification**.

**Part D:****Signature of Person Preparing Form if Other than**

**Above** need not be filled in if you just got a little help from a friend. This line is mainly for lawyers or agencies who fill out these forms on others' behalf.

**Sample Fiancé Meeting Statement—Attachment to Form I-129F**

This document responds to Question 18 on Form I-129F. Although the main purpose is to show that you've fulfilled the personal meeting requirement, it's a fine opportunity to include extra detail about your life with your fiancé to show USCIS that this is

a real relationship. You don't need to sound like a lawyer, but should provide enough personal detail that USCIS sees that you didn't just get a sample statement out of a book!

FILED BY TOM LOVETT ON BEHALF OF XIAOJIN FENG

**QUESTION 18**

I am a U.S. citizen residing at 111 Park Place, Monopolia, MD.

I met my fiancée in June 1998 when I was a student at Beijing University in China. I had just arrived in Beijing in early June to study Chinese. The campus was huge, and I kept getting lost. One day in mid-June, Xiaojin asked if she could help me find my way. I noticed that her English was excellent, and asked her about it.

It turns out she was a graduate student in the English department. As the days went by I realized that learning Chinese was going to be harder than I thought. I happened to run into Xiaojin again, and asked her to tutor me. After that we began spending a great deal of time together, including twice-a-week tutoring sessions, and at other times for walks, meals, and other social outings. By the time my program was over in August we both realized we were in love, and I asked Xiaojin to marry me. I have also met Xiaojin's parents, who have consented to our marriage.

I am now back in the United States. Our plan is for Xiaojin and me to marry and settle down in Maryland where I live. Since my return, we have emailed each other every day, and we talk on the phone once a week.

As proof that Xiaojin and I have met in person and that we are truly in love and planning to marry, I am attaching a copy of our school transcripts showing that we were at Beijing University at the same time; photos of the two of us together, including some with her family at the banquet that they hosted in honor of our engagement; copies of our recent emails; copies of my recent telephone bills showing calls to her home in China; and copies of catering and other contracts showing that the wedding has been arranged for this coming June. I hope that you will approve the visa in time for our wedding.

Signed: Tom Lovett

Tom Lovett

Date: \_\_\_\_\_



## ii. Form G-325A

The government can use the information you supply on this form to check your background (although it's unclear whether they consistently do so). This form is single-sided. You and your spouse each need to fill out a Form G-325A. Your spouse must submit a single copy, but you must submit four exact copies. Traditionally, the first page is white, the second pastel green, the third pastel pink, and the third pastel blue—but this is one of those rules that USCIS promises to become more relaxed about, so follow it only if you want to be extra careful.

Most of the form is self-explanatory. If you really can't remember or don't know an exact date, enter whatever you can remember, such as the year. Alternately, you can simply say "unknown," but if you overuse the "unknowns," USCIS may return your entire application for another try. Since the questions aren't numbered, we refer to them by the approximate line.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of this form.

**Line 1 (Family Name, etc.):** Self-explanatory.

**Line 2 (Father/Mother):** Self-explanatory.

**Line 3 (Husband or Wife):** Self-explanatory.

**Line 4 (Former Husbands or Wives):** Self-explanatory.

**Line 6 (Applicant's Residence Last Five Years):** Be careful here—these need to be in reverse chronological order, starting with your most recent address and working your way down the last five years. For example, if you live in Beijing now but lived in Xian before, your Beijing address would go on the top line. Practice this on another sheet of paper before you enter the information here.

**Line 7 (Applicant's Last Address Outside the United States of More Than One Year):** This may overlap with one of the addresses in Line 6—that's okay.

**Line 8 (Applicant's Employment Last Five Years):** Again, be careful to put this in reverse chronological order. If you've been unemployed, self-employed, or were a housewife or house-husband, say so here—in other words, try not to leave anything blank. If you have worked illegally in the United States, you will need to identify your employers.

In our experience, this doesn't cause USCIS to go after the employers.



**Use of false documents is a ground of inadmissibility.** If you used false documents, such as a fake green card or Social Security card, to work illegally in the United States, see a lawyer. Simply using a fake Social Security number, however, without a fake Social Security card, is usually not considered a problem.

**Line 9 (Show below last occupation abroad if not listed above):** People tend to overlook this line—you shouldn't.

**Line 10 (This Form Is Submitted in Connection With Application For):** The U.S. citizen should check "other," and write "in support of spouse's I-129F"; you should also check "other" and write "Fiancé Visa Application."

**Line 11 (If your native alphabet uses non-Roman letters):** Self-explanatory.

**Line 12: (The large box):** Self-explanatory.

## b. Documents That Must Accompany Your Fiancé Visa Petition

You need to do more than just fill in the blanks for your fiancé visa petition. The government wants additional written proof of two issues—that the two of you have met in person within the last two years, and that you really intend to marry. This section contains detailed instructions about how you can satisfy these requirements. It also describes some of the miscellaneous requirements, such as photos and fees.

### i. Proof That You Have Met in Person or Qualify for an Exception

If you and your fiancé have met in person, look for documents that will illustrate your meetings. Documents from a neutral, outside source such as an airline or landlord are best. Some possibilities are:

- dated photos of you together (if your camera doesn't put an electronic date on the photo, write it on the back, and also write where you were)

## Form G-325A, Biographic Information

U.S. Department of Justice  
Immigration and Naturalization ServiceOMB No. 1115-0066  
**BIOGRAPHIC INFORMATION**

(Family name)	(First name)	(Middle name)	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	BIRTHDATE (Mo.-Day-Yr.)	NATIONALITY	FILE NUMBER A-
ALL OTHER NAMES USED (Including names by previous marriages)			CITY AND COUNTRY OF BIRTH		SOCIAL SECURITY NO. (If any)	
FATHER MOTHER (Maiden name)						
FAMILY NAME		FIRST NAME	DATE, CITY AND COUNTRY OF BIRTH (If known)		CITY AND COUNTRY OF RESIDENCE.	
HUSBAND (If none, so state) OR WIFE FAMILY NAME (If or wife, give maiden name)						
FAMILY NAME		FIRST NAME	BIRTHDATE	CITY & COUNTRY OF BIRTH	DATE OF MARRIAGE	PLACE OF MARRIAGE
FORMER HUSBANDS OR WIVES (If none, so state)						
FAMILY NAME (For wife, give maiden name)		FIRST NAME	BIRTHDATE	DATE & PLACE OF MARRIAGE	DATE AND PLACE OF TERMINATION OF MARRIAGE	
APPLICANT'S RESIDENCE LAST FIVE YEARS. LIST PRESENT ADDRESS FIRST						
STREET AND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	FROM MONTH YEAR	TO MONTH YEAR
PRESENT TIME						
APPLICANT'S LAST ADDRESS OUTSIDE THE UNITED STATES OF MORE THAN ONE YEAR						
STREET AND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	FROM MONTH YEAR	TO MONTH YEAR
APPLICANT'S EMPLOYMENT LAST FIVE YEARS. (IF NONE, SO STATE) LIST PRESENT EMPLOYMENT FIRST						
FULL NAME AND ADDRESS OF EMPLOYER			OCCUPATION (SPECIFY)	FROM MONTH YEAR	TO MONTH YEAR	
PRESENT TIME						
Show below last occupation abroad if not shown above. (Include all information requested above.)						
THIS FORM IS SUBMITTED IN CONNECTION WITH APPLICATION FOR:						
<input type="checkbox"/> NATURALIZATION <input type="checkbox"/> STATUS AS PERMANENT RESIDENT			SIGNATURE OF APPLICANT			
<input type="checkbox"/> OTHER (SPECIFY):			DATE			
Submit all four pages of this form.			If your native alphabet is other than roman letters, write your name in your native alphabet here:			

PENALTIES: SEVERE PENALTIES ARE PROVIDED BY LAW FOR KNOWINGLY AND WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT.

**APPLICANT: BE SURE TO PUT YOUR NAME AND ALIEN REGISTRATION NUMBER IN THE BOX OUTLINED BY HEAVY BORDER BELOW.**

COMPLET THIS BOX (Family name) (Given name) (Middle name) (Alien registration number)

- copies of plane tickets (including boarding passes) that you used to meet each other
- copies of your passports showing the stamps from when you traveled to see each other, and
- credit card receipts showing that you spent money at the same place and same time.

If you and your fiancé have not met in person, include documentation that will prove that this was for religious or medical reasons, such as

- a letter from your parents
- a letter from your religious guide
- a detailed letter from a medical professional, and
- copies of relevant medical records.

## ii. Additional Proof That You Intend to Marry

Now that you've found a way to prove that you and your fiancé have met, you need to go one step farther and show that you plan to marry. Some possible documents to gather are:

- copies of cards and letters between you discussing your marriage plans (it's okay to block out the most intimate sections)
- copies of phone bills showing that you called each other
- wedding announcements, and
- evidence of other wedding arrangements (such as a letter from the religious leader or justice of the peace who will perform the ceremony, contracts for catering, photography, rented chairs, dishes, or other equipment, flowers, and musical entertainment).

## iii. Additional Items to Accompany Fiancé Visa Petition

In addition, your Fiancé Visa Petition will need to include the following:

- **Proof of the U.S. citizenship status of your petitioning spouse.** Depending on how your spouse became a citizen, this might include a copy of a birth certificate, passport, certificate of naturalization, certificate of citizenship, or Form FS-20 (Report of Birth Abroad of a U.S. Citizen).
- **Photos.** For the USCIS instructions on photos, (what size and how to pose), see Form M-378, in Appendix E. However, USCIS regulations permit you to submit a photo that doesn't

completely follow the instructions if you live in a country where such photographs are unavailable or cost prohibitive.

- **Fee.** The current fee for an I-129F visa petition is \$165. However, USCIS fees go up fairly regularly, so doublecheck them at [www.uscis.gov](http://www.uscis.gov) or by calling 800-375-5283. Make checks or money orders payable to USCIS (don't send cash).

## c. Where to Send the Fiancé Visa Petition

When your U.S. citizen fiancé has finished the Fiancé Visa Petition, he or she must send it to the USCIS Service Center for his or her geographic area (not to be confused with a local District Office). (See Appendix C to figure out which Service Center is "local," or double check this on the USCIS website at [www.uscis.gov/graphics/fieldoffices/statemap.htm](http://www.uscis.gov/graphics/fieldoffices/statemap.htm).) If your U.S. citizen fiancé lives overseas, he or she should contact the local U.S. consulate, which can usually forward the petition to the appropriate USCIS Service Center.

Your U.S. citizen fiancé should also photocopy and send a copy of the Fiancé Visa Petition to you. File it carefully with your other records and familiarize yourself with the answers so you'll be prepared to explain anything on it during your upcoming visa interview.

## d. What Will Happen After Sending in the Fiancé Visa Petition

A few weeks after sending in the Fiancé Visa Petition, the USCIS Service Center should mail your U.S. citizen fiancé a notice titled Notice of Action and numbered I-797C. This notice will say how long the visa petition is likely to remain in processing (usually at least two to six months). Until that date, the Service Center will ignore any letters asking what is going on.

These Service Centers seem like walled fortresses. You can't visit them and it's almost impossible to talk to a live person. If the petition is delayed past the processing time predicted on the Notice of Action (and delays are fairly normal), you are allowed to

contact the Service Center—but the most reliable way to contact them is by letter. (See Chapter 15, *Dealing with Bureaucrats, Delays, and Denials*, for sample letters.)

If USCIS needs additional documentation to complete the Fiancé Visa Petition, they will send the U.S. citizen a letter asking for it. Once the petition is approved, the Service Center will notify your U.S. citizen fiancé and transfer your case to the National Visa Center (NVC). The NVC will take care of some processing matters, then transfer your file to the U.S. consulate in your home country. The NVC will notify you when the case has been transferred. The notification to the U.S. consulate will travel by “diplomatic pouch,” a process that may sound like it involves special couriers running through the night. Unfortunately, it’s not that dramatic and can take several weeks.

To try to speed the transfer of your USCIS file to a U.S. consulate, some couples have had luck by faxing a copy of their approval notice directly to the

consulate. The consulate may then open a file for you, the immigrating fiancé, and send the appropriate follow-up paperwork. Not all consulates will do this, but it’s worth a try. Of course, the consulate will not give final approval to your fiancé visa until they’ve received official confirmation from the NVC—but by that time you’ll hopefully be close to your interview date.

### e. Using the Checklist for K-1 Fiancé Visa Petition

When you put it all together, the Fiancé Visa Petition involves three forms and some supporting documents, as detailed on the following checklist. As you fill out and prepare your paperwork, mark off the items that you’ve found or finished on your checklist. This will be the best way to make sure you haven’t forgotten anything.

#### Checklist for K-1 Fiancé Visa Petition

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Form I-129F (see Subsection a, above, for line-by-line instructions)</li> <li><input type="checkbox"/> Form G-325A (one filled out by you and one by your fiancé; see Subsection a, above, for line-by-line instructions)</li> <li><input type="checkbox"/> A color photo of you (see Appendix E for USCIS’s photo instructions)</li> <li><input type="checkbox"/> A color photo of your fiancé (see Appendix E for USCIS’s photo instructions)</li> <li><input type="checkbox"/> Fee (currently \$165; double check at <a href="http://www.uscis.gov">www.uscis.gov</a>)</li> <li><input type="checkbox"/> Proof of the U.S. citizenship of your petitioner: a birth certificate, passport, naturalization certificate, or Report of Birth Abroad of a United States Citizen (see Chapter 4, Section C, on “How to Obtain Needed Documents”)</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Proof that the two of you are legally able to marry (see Chapter 2, Section B, to review)</li> <li><input type="checkbox"/> A statement written by your U.S. citizen petitioner describing how you met (see Subsection b, above)</li> <li><input type="checkbox"/> Proof that the two of you have met within the last two years, or that you qualify for an exception to this requirement (see Subsection b, above)</li> <li><input type="checkbox"/> Additional proof that the two of you truly intend to marry, whether or not you have met in person (see Subsection b, above).</li> </ul> |
|--|---|



The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

## 2. Step Two: Fiancé Mails Forms Back to the NVC

Once the U.S. consulate receives notice of the approval of your Fiancé Visa Petition from the NVC, it will send you a follow-up application and further instructions. (This collection of items was formerly referred to as Packet III, now called the “Instruction Package.”) Which forms they send, and with what instructions, varies widely among consulates. We do not include all possible forms in this book. Instead, we’ve tried to mention only the forms that the majority of consulates ask for. The important thing is to follow the instructions that you receive from the consulate.

To keep the process moving, you’ll need to fill out certain of the forms you receive in your Instruction Package fairly quickly (the consulate will tell you which forms) and send them back to the consulate. Don’t delay, since the approval of your Fiancé Visa Petition is only good for four months (though the consulate can give you one four-month extension). If you don’t fill out and return the forms within the required time frame, you’ll have to start over at Step One.

### a. Line-by-Line Instructions for Fiancé Forms for Mailing

This section will give you instructions for filling out the forms that you’ll need to mail in. Remember, you may not receive all of them—and you may get others not listed here. Be sure to have a copy of the appropriate form in hand as you go through these instructions.

#### i. Form DS-156

Form DS-156 is a basic form used to test the eligibility of immigrants coming for temporary stays, including not only fiancés, but tourists and students. Don’t be confused by the sections that don’t seem to apply to you—tourists and students must promise

that they don’t plan to stay in the United States permanently, whereas you are permitted to intend to stay permanently.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G, but use the form that you get from the consulate if it’s different. Below is a picture of the first page of this form.

**Questions 1-16:** Self-explanatory.

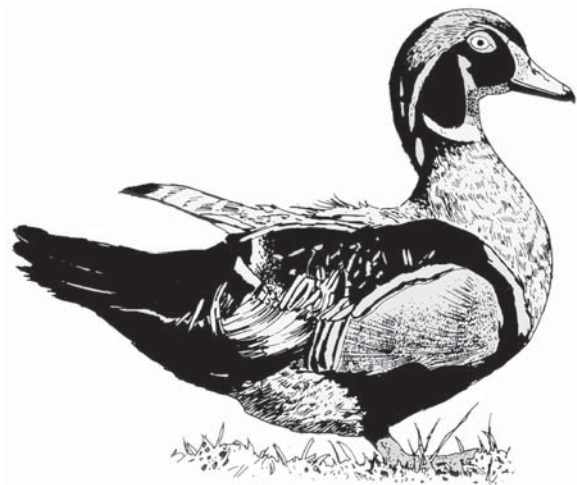
**Question 17:** Check any appropriate box except “married” or “separated.” You’re only supposed to be a fiancé at this point, not a married person. If you are separated from a previous spouse, the divorce needs to be finalized before you continue with this application.

**Questions 18 and 19:** You should write “None” in both squares—you don’t (or shouldn’t) have a spouse yet.

**Questions 20 and 21:** Self-explanatory (who you work for, and what you do for a living).

**Question 22:** It’s okay to approximate an arrival date if you haven’t yet purchased tickets. After all, you might want to wait to buy a ticket until the consulate has approved your visa.

**Question 23:** If you don’t have an email address, write “None.”



**Mississippi**

State Waterfowl: Wood Duck

## Form DS-156, Nonimmigrant Visa Application—Page 1



U.S. Department of State  
**NONIMMIGRANT VISA APPLICATION**

Approved OMB 1405-0018  
Expires 08/31/2004  
Estimated Burden 1 hour  
See Page 2

PLEASE TYPE OR PRINT YOUR ANSWERS IN THE SPACE PROVIDED BELOW EACH ITEM					
1. Passport Number		2. Place of Issuance: City		Country	State/Province
3. Issuing Country		4. Issuance Date (dd-mmm-yyyy)		5. Expiration Date (dd-mmm-yyyy)	
6. Surnames (As in Passport)					<b>DO NOT WRITE IN THIS SPACE</b> B-1/B-2 MAX    B-1 MAX    B-2 MAX Other _____ MAX Visa Classification _____ Mult or _____ Number of Applications _____ Months _____ Validity _____ Issued/Refused _____ On _____ By _____ Under SEC.    214(b)    221(g) Other _____ INA Reviewed By _____
7. First and Middle Names (As in Passport)					
8. Other Surnames Used (Maiden, Religious, Professional, Aliases)					
9. Other First and Middle Names Used				10. Date of Birth (dd-mmm-yyyy)	
11. Place of Birth: City		Country	State/Province		
12. Nationality					
13. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	14. National Identification Number (If applicable)		15. Home Address (Include apartment number, street, city, state or province, postal zone and country)		
16. Home Telephone Number		Business Phone Number		Mobile/Cell Number	
Fax Number		Business Fax Number		Pager Number	
17. Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Single (Never Married) <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input type="checkbox"/> Separated		18. Spouse's Full Name (Even if divorced or separated. Include maiden name.)		19. Spouse's DOB (dd-mmm-yyyy)	
20. Name and Address of Present Employer or School Name: _____ Address: _____					
21. Present Occupation (If retired, write "retired". If student, write "student".)		22. When Do You Intend To Arrive In The U.S.? (Provide specific date if known)		23. E-Mail Address	
24. At What Address Will You Stay in The U.S.?					<b>BARCODE</b>  <b>DO NOT WRITE IN THIS SPACE</b>  50 mm x 50 mm PHOTO staple or glue photo here
25. Name and Telephone Numbers of Person in U.S. Who You Will Be Staying With or Visiting for Tourism or Business					
Name		Home Phone			
Business Phone		Cell Phone			
26. How Long Do You Intend To Stay in The U.S.?		27. What is The Purpose of Your Trip?			
28. Who Will Pay For Your Trip?		29. Have You Ever Been in The U.S.? <input type="checkbox"/> Yes <input type="checkbox"/> No			
		WHEN? _____			
		FOR HOW LONG? _____			

DS-156  
02-2003

PREVIOUS EDITIONS OBSOLETE

Additional pages not shown.



**Questions 24 and 25:** The name of whom you'll be staying with and their address will hopefully be your fiancé's. If you will be staying with someone else temporarily until the wedding, you might want to attach their address as a separate page, with an explanation.

**Question 26:** If you plan to apply for your green card in the United States, write "permanently; will apply for permanent residence following marriage." If you are going to return after your marriage, write "90 days," or a lower number, if you don't need a whole 90 days.

**Question 27:** The purpose of your trip is to "Marry U.S. citizen fiancé" (if it's a man) or "fiancée" (if it's a woman).

**Question 28:** To avoid raising questions, the person named here as paying for your trip should either be your fiancé and/or you, or the person who signed an additional Affidavit of Support for you as a joint sponsor. (See Chapter 3 for further explanation of Affidavits of Support.)

**Question 29:** Self-explanatory. Again, they'll be looking for past visa fraud or unlawful time spent in the United States.

**Question 30:** This question calls for any immigrant (permanent) or nonimmigrant (temporary) visas that you might have applied for in the past. (See the Glossary for definition of nonimmigrant—it includes visas like tourist and student.) If you applied for an immigrant visa in the past, then the question of what happened to it will arise—if you were denied, why, and if you were approved, why do you now need to apply for another immigrant visa?

Almost none of the nonimmigrant visas would create problems for returning to the United States unless you had overstayed the visa expiration date and spent time there unlawfully. (See Chapter 2, Section A.) The exception is if you were in the United States on a J-1 (exchange student) visa and haven't yet completed your two-year "home country" residency requirement. If you had a J-1 or J-2 visa within the last two years, consult a lawyer.

**Question 31:** This question asks whether you have ever been refused a visa. Many people have been refused visas to the United States, particularly in

the tourist visa category. Therefore, admitting that you have been denied a visa is not necessarily a strike against you. However, if you have ever been denied a visa because of attempted fraud, this may lead USCIS to deny your current application.

**Question 32:** If you plan to work in the United States, it's fine to say so here, since as a fiancé you have the right to work (as long as you have gotten the proper authorization stamp or document; see Section I, below for further explanation). To answer this question, you should say "Fiancé applicant; will seek work authorization."

**Question 33:** This question is primarily for student visa applicants. You're best off inserting "N/A."



**Colorado**  
Colorado Blue Spruce



**Question 34:** Enter the names of any of your children who will be accompanying you to the United States. As the form mentions, a separate Form DS-156 will have to be submitted for each child.

**Question 35:** If you have ever had a visa cancelled or revoked, consult a lawyer before continuing.

**Question 36:** This question asks about any immigrant (permanent, green card) petitions that you filed for, perhaps by a family member who is a U.S. citizen or resident, or an employer.

If these petitions are still pending, no problem—as a fiancé, you're allowed to have more than one petition going on at the same time, so long as they don't reveal contradictory intentions on your part. (For example, if one petition was filed by a different fiancé, that's a problem.) If the petitions have already been decided, and were denied, then problems could also arise if the denials were for reasons that reflect badly on you, such as fraud.

**Question 37:** Self-explanatory. This question—about family members in the United States—has more to do with tourist visa applicants than you. They want to make sure that tourists and other temporary visitors don't plan to join their families and stay permanently.

**Question 38:** These questions are designed to see if you are inadmissible (see Chapter 2 for more on the grounds of inadmissibility). If your answer to any of the questions is "yes," see a lawyer before continuing.

**Questions 39 and 40:** These questions concern whether lawyers, paralegals, or other agencies may have filled in this form for you—it's okay if they did, assuming they didn't just tell you what to say or counsel you to lie.

**Question 41:** Sign and date the application.

## ii. Form DS-156K

This is a very short form designed to collect some information concerning fiancé applicants that Form DS-156 neglected to ask for.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G, but use the form that you get from the NVC if it's different. Below is a picture of this form.

**Questions 1-3:** Self-explanatory.

**Question 4:** Self-explanatory, but don't make the mistake of listing your current fiancé as a spouse. This question only asks about previous marriages, or marriages that you should have ended by now.

**Question 5:** List all of your children, whether or not they are immigrating. Then check the boxes at the right to tell the consulate whether they are immigrating. If they'll be coming at the same time as you, check the "yes" box on the left. If they'll follow you some months later, check the "yes" box at the right.

Don't write anything else on this form—you won't sign it until your interview.



**Hawaii**  
State Dance: Hula

## Form DS-156K, Supplement to Form DS-156



U.S. Department of State  
**NONIMMIGRANT FIANCÉ(E) VISA APPLICATION**  
 USE WITH FORM DS-156

OMB APPROVAL NO.1405-0096  
 EXPIRES: 05/31/2004  
 ESTIMATED BURDEN: 1 HOUR\*

The following questions must be answered by all applicants for visas to enter the United States as the fiancée or fiancé of a U.S. citizen in order that a determination may be made as to visa eligibility.

This form, together with Form DS-156, Nonimmigrant Visa Application, completed in duplicate, constitutes the complete application for a "K" Fiancé(e) Nonimmigrant Visa authorized under Section 222(c) of the Immigration and Nationality Act.

1. FAMILY NAME		FIRST NAME	MIDDLE NAME
2. DATE OF BIRTH (mm-dd-yyyy)	3. PLACE OF BIRTH (City, Province, Country)		
4. MARITAL STATUS If you are now married or were previously married, answer the following:			
a. Name of spouse: _____			
b. Date (mm-dd-yyyy) and place of marriage: _____			
c. How and when was marriage terminated: _____			
d. If presently married, how will you marry your U.S. citizen fiancé(e)? Explain:*			
* NOTE: If presently married to anyone, you are <b>not</b> eligible for a fiancé(e) visa.			

5. LIST NAME, DATE AND PLACE OF BIRTH OF ALL UNMARRIED CHILDREN UNDER 21 YEARS OF AGE			WILL ACCOMPANY		WILL FOLLOW	
NAME	BIRTH DATE (mm-dd-yyyy)	BIRTH PLACE	YOU		YOU	
			YES	NO	YES	NO
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**THE FOLLOWING DOCUMENTS MUST BE ATTACHED IN ORDER TO APPLY FOR A FIANCE(E) NONIMMIGRANT VISA**

- Your birth certificate
- Marriage certificate (if any)
- Evidence of engagement to your fiancé(e)
- Birth certificates of all children listed in No. 5
- Divorce decree (if any)
- Evidence of financial support
- Death certificate of spouse (if any)
- Police certificates

NOTE: All of the above documents will also be required by the Immigration and Naturalization Service (INS) when you apply for adjustment of status to lawful permanent resident. The INS will accept these documents for that purpose.

**DO NOT WRITE BELOW THIS LINE**  
 The consular officer will assist you in answering this part.

I understand that I am required to submit my visa to the United States Immigration Officer at the place where I apply to enter the United States, and that the possession of a visa does not entitle me to enter the United States if at that time I am found to be inadmissible under the immigration laws. I further understand that my adjustment of status to permanent resident alien is dependent upon marriage to a U.S. citizen and upon meeting all of the requirements of the Immigration and Naturalization Service.

I understand that any willfully false or misleading statement or willful concealment of a material fact made by me herein may subject me to permanent exclusion from the United States and, if I am admitted to the United States, may subject me to criminal prosecution and/or deportation.

I hereby certify that I am legally free to marry and intend to marry \_\_\_\_\_, a U.S. citizen, within 90 days of my admission into the United States.

I do solemnly swear or affirm that all statements which appear in this application have been made by me and are true and complete to the best of my knowledge and

\_\_\_\_\_  
 Signature of Applicant

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at: \_\_\_\_\_

\_\_\_\_\_  
 United States Consular Officer

\*Public reporting burden for this collection of information is estimated to average 1 hour per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. In accordance with 5 CFR 1320 5(b), persons are not required to respond to the collection of this information unless this form displays a currently valid OMB control number. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: U.S. Department of State (A/RPS/DIR) Washington, D.C. 20520.

DS-156K  
 05-2001

PREVIOUS EDITIONS OBSOLETE

### iii. Form DS-230 Application for Immigrant Visa and Alien Registration, Part I—Biographic Information

The purpose of this form is to gather some additional identifying information about you. It is somewhat repetitive—just make sure you're consistent with the other forms.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G, but use the form that you get from the U.S. consulate if it's different. Below is a picture of the first page of this form.

**Questions 1-8:** Self-explanatory.

**Question 9:** Again, make sure not to say that you're married.

**Questions 10-18:** Self-explanatory.

**Question 19:** List all your children. You'll have a chance to identify which ones are traveling with you in a later question.

**Question 20:** This list of addresses is collected for security reasons—for your interview, you'll be asked to provide police certificates from places you've lived.

**Question 21a:** List only those children who will be immigrating with you at the same time.

**Question 21b:** List only those children who will join you after you arrive in the United States.

**Questions 22-24:** Self-explanatory.

**Question 25:** If you've spent more than 180 days in the United States without a valid visa or other right to be in the United States after April 1, 1997, you need to see a lawyer before going any farther. (See Chapter 2, Section A.)

### b. Where to Send Your Packet

Send your completed packet of forms back to the consulate that sent them to you. Its address (which may be just a post office box) will be in the materials that you received. This consulate will probably be the one nearest to you in your home country. But if your country doesn't have diplomatic relations with the United States, or the nearest consulate

doesn't offer this type of visa service, a consulate in a more distant city or country may be designated.

If you are filling out this packet on your own, we also recommend photocopying it and sending a copy to your fiancé both before and after you send the final version to the consulate. That way he or she can review it and make sure that it is consistent with the other materials that the two of you are submitting.

### c. What Will Happen After You Mail in the Packet of Forms

Once you've sent the consulate the required packet of forms, it will request a security clearance from every place you've lived since the age of 16. (They'll get this information from your forms.) Usually, the consulate simply asks a government office to check its records to see if you have a police record; and to send the consulate a copy of that record or a statement that you have no record. Assuming your records come back clean, the consulate will move to the third step.



**If you know or are advised by the U.S. consulate that you have a criminal record,** you should consult a lawyer right away, no matter how minor the crime.

### d. Using the Checklist for Fiancé Mailing to Consulate

These forms shouldn't take you very long to prepare. Using the checklist, check off the forms as you finish them and get your packet in the mail.



The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

## DS-230 Part I, Application for Immigrant Visa and Alien Registration—Page 1



U.S. Department of State  
**APPLICATION FOR IMMIGRANT VISA AND  
 ALIEN REGISTRATION**

OMB APPROVAL NO. 1405-0015  
 EXPIRES: 05/31/2004  
 ESTIMATED BURDEN: 1 HOUR\*  
 (See Page 2)

**PART I - BIOGRAPHIC DATA**

**INSTRUCTIONS:** Complete one copy of this form for yourself and each member of your family, regardless of age, who will immigrate with you. Please print or type your answers to all questions. Mark questions that are Not Applicable with "N/A". If there is insufficient room on the form, answer on a separate sheet using the same numbers that appear on the form. Attach any additional sheets to this form.

**WARNING:** Any false statement or concealment of a material fact may result in your permanent exclusion from the United States.

This form (DS-230 PART I) is the first of two parts. This part, together with Form DS-230 PART II, constitutes the complete Application for Immigrant Visa and Alien Registration.

1. Family Name		First Name		Middle Name	
2. Other Names Used or Aliases <i>(If married woman, give maiden name)</i>					
3. Full Name in Native Alphabet <i>(If Roman letters not used)</i>					
4. Date of Birth <i>(mm-dd-yyyy)</i>	5. Age	6. Place of Birth (City or town) (Province) (Country)			
7. Nationality <i>(If dual national, give both)</i>	8. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	9. Marital Status <input type="checkbox"/> Single <i>(Never married)</i> <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input type="checkbox"/> Separated Including my present marriage, I have been married _____ times.			
10. Permanent address in the United States where you intend to live, if known <i>(street address including zip code)</i> . Include the name of a person who currently lives there.			11. Address in the United States where you want your Permanent Resident Card <i>(Green Card)</i> mailed, if different from address in item #10 <i>(include the name of a person who currently lives there)</i> .		
Telephone number:			Telephone number:		
12. Your Present Occupation			13. Present Address <i>(Street Address) (City or Town) (Province) (Country)</i>		
			Telephone number: Home Office		
14. Name of Spouse <i>(Maiden or family name)</i>		First Name		Middle Name	
Date <i>(mm-dd-yyyy)</i> and place of birth of spouse: Address of spouse <i>(If different from your own)</i> :  Spouse's occupation: Date of marriage <i>(mm-dd-yyyy)</i> :					
15. Father's Family Name		First Name		Middle Name	
16. Father's Date of Birth <i>(mm-dd-yyyy)</i>	Place of Birth	Current Address		If deceased, give year of death	
17. Mother's Family Name at Birth		First Name		Middle Name	
18. Mother's Date of Birth <i>(mm-dd-yyyy)</i>	Place of Birth	Current Address		If deceased, give year of death	

DS-230 Part I  
 05-2001

THIS FORM MAY BE OBTAINED FREE AT CONSULAR OFFICES OF THE UNITED STATES  
 PREVIOUS EDITIONS OBSOLETE

Additional pages not shown.



### Checklist for Fiancé Mailing to Consulate

- ☐ Form DS-156 (prepared in duplicate; see Subsection a, above, for line-by-line instructions)
- ☐ Form DS-156K (filled in but unsigned; see Subsection a, above, for line-by-line instructions)
- ☐ Form DS-230 Part I (see Subsection a, above, for line-by-line instructions).

## 3. Step Three: Final Forms and the Visa Interview

For the third and final step in the fiancé visa application process, the consulate will send you another packet, formerly called Packet IV but now called the Appointment Package. This package will contain an interview notice and some additional forms and instructions (including one for the medical exam). You'll get two to four weeks notice of your upcoming interview.

You Appointment Package may contain forms and instructions specially prepared by your local consulate and therefore not covered in this book. Always use the forms provided by the consulate if they are different from the ones in this book.

### a. Line-by-Line Form Instructions for Fiancé Interview Forms

This section will give you precise instructions for filling out the forms that you'll receive in your Appointment Package. They are listed on the Checklist for Fiancé Appointment Package, below.

### i. Form DS-230, Application for Immigrant Visa and Alien Registration, Part II—Sworn Statement

Most of this form is self-explanatory. Because of variations between consulates, we can't give you exact instructions for every question.



Form DS-230 Part II is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. However, you are best off using the form you receive from the U.S. consulate, because it may be a bit different. Below is a picture of the first page of this form.

The “yes or no” questions (with boxes to check) refer to the grounds of inadmissibility described in Chapter 2. If you check “yes” on any of them, consult a lawyer immediately and do not file the form until after this consultation.

**Signature line:** Do not sign this form until you are at your interview.



**Alabama**

State Flower: Camellia

## DS-230 Part II, Application for Immigrant Visa and Alien Registration—Page 1

U.S. Department of State  
**APPLICATION FOR IMMIGRANT VISA AND  
ALIEN REGISTRATION**OMB APPROVAL NO. 1405-0015  
EXPIRES: 05/31/2004  
ESTIMATED BURDEN: 1 HOUR\***PART II - SWORN STATEMENT**

**INSTRUCTIONS:** Complete one copy of this form for yourself and each member of your family, regardless of age, who will immigrate with you. Please print or type your answers to all questions. Mark questions that are Not Applicable with "N/A". If there is insufficient room on the form, answer on a separate sheet using the same numbers that appear on the form. Attach any additional sheets to this form. The fee should be paid in United States dollars or local currency equivalent, or by bank draft.

**WARNING:** Any false statement or concealment of a material fact may result in your permanent exclusion from the United States. Even if you are issued an immigrant visa and are subsequently admitted to the United States, providing false information on this form could be grounds for your prosecution and/or deportation.

This form (DS-230 PART II), together with Form DS-230 PART I, constitutes the complete Application for Immigrant Visa and Alien Registration.

26. Family Name	First Name	Middle Name
27. Other Names Used or Aliases (If married woman, give maiden name)		
28. Full Name in Native Alphabet (If Roman letters not used)		
29. Name and Address of Petitioner		
Telephone number:		
30. United States laws governing the issuance of visas require each applicant to state whether or not he or she is a member of any class of individuals excluded from admission into the United States. The excludable classes are described below in general terms. You should read carefully the following list and answer YES or NO to each category. The answers you give will assist the consular officer to reach a decision on your eligibility to receive a visa.		

**EXCEPT AS OTHERWISE PROVIDED BY LAW, ALIENS WITHIN THE FOLLOWING CLASSIFICATIONS ARE INELIGIBLE TO RECEIVE A VISA.  
DO ANY OF THE FOLLOWING CLASSES APPLY TO YOU?**

- a. An alien who has a communicable disease of public health significance; who has failed to present documentation of having received vaccinations in accordance with U.S. law; who has or has had a physical or mental disorder that poses or is likely to pose a threat to the safety ☐ Yes ☐ No
- b. An alien convicted of, or who admits having committed, a crime involving moral turpitude or violation of any law relating to a controlled substance or who is the spouse, son or daughter of such a trafficker who knowingly has benefited from the trafficking activities in the past five years; who has been convicted of 2 or more offenses for which the aggregate sentences were 5 years or more; who is coming to the United States to engage in prostitution or commercialized vice or who has engaged in prostitution or procuring within the past 10 years; who is or has been an illicit trafficker in any controlled substance; who has committed a serious criminal offense in the United States and who has asserted immunity from prosecution; who, while serving as a foreign government official and within the previous 24-month period, was responsible for or directly carried out particularly severe violations of religious freedom; or whom the President has identified as a person who plays a significant role in a severe form of trafficking in persons, who otherwise has knowingly aided, abetted, assisted or colluded with such a trafficker in severe forms of trafficking in persons, or who is the spouse, son or daughter of such a trafficker who knowingly has benefited from the trafficking activities within the past five years. ☐ Yes ☐ No
- c. An alien who seeks to enter the United States to engage in espionage, sabotage, export control violations, terrorist activities, the overthrow of the Government of the United States or other unlawful activity; who is a member of or affiliated with the Communist or other totalitarian party; who participated in Nazi persecutions or genocide; who has engaged in genocide; or who is a member or representative of a terrorist organization as currently designated by the U.S. Secretary of State. ☐ Yes ☐ No
- d. An alien who is likely to become a public charge. ☐ Yes ☐ No
- e. An alien who seeks to enter for the purpose of performing skilled or unskilled labor who has not been certified by the Secretary of Labor; who is a graduate of a foreign medical school seeking to perform medical services who has not passed the NBME exam or its equivalent; or who is a health care worker seeking to perform such work without a certificate from the CGFNS or from an equivalent approved independent credentialing organization. ☐ Yes ☐ No
- f. An alien who failed to attend a hearing on deportation or inadmissibility within the last 5 years; who seeks or has sought a visa, entry into the United States, or any immigration benefit by fraud or misrepresentation; who knowingly assisted any other alien to enter or try to enter the United States in violation of law; who, after November 30, 1996, attended in student (F) visa status a U.S. public elementary school or who attended a U.S. public secondary school without reimbursing the school; or who is subject to a civil penalty under INA 274C. ☐ Yes ☐ No

**Privacy Act and Paperwork Reduction Act Statements**

The information asked for on this form is requested pursuant to Section 222 of the Immigration and Nationality Act. The U.S. Department of State uses the facts you provide on this form primarily to determine your classification and eligibility for a U.S. immigrant visa. Individuals who fail to submit this form or who do not provide all the requested information are denied a U.S. immigrant visa. If you are issued an immigrant visa and are subsequently admitted to the United States as an immigrant, the Immigration and Naturalization Service will use the information on this form to issue you a Permanent Resident Card, and, if you so indicate, the Social Security Administration will use the information to issue you a social security card.

\*Public reporting burden for this collection of information is estimated to average 1 hour per response, including time required for searching existing data sources, gathering the information required, and reviewing the final collection. In accordance with 5 CFR 1320 5(b), persons are not required to respond to the collection of information if it does not display a currently valid OMB control number. Send comments on the accuracy of this estimate of the burden and recommendations for reducing the burden to Washington, D.C. 20520.

## ii. Form I-134

Form I-134 is filled out by the U.S. citizen to show the U.S. government that the citizen can and will support you financially. Not all consulates require the use of Form I-134 as part of the fiancé visa application, though all will require some evidence that you won't need to go on welfare or receive other government assistance. If you have children immigrating with you, the children won't need separate Forms I-134; listing them in Question 3 is sufficient.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

What this form doesn't tell you is that the government can be very strict in its opinion of how much income it takes to support someone. Read Chapter 3 for further discussion of how to satisfy the government's requirements. After your U.S. citizen fiancé is done filling in the blanks on this form, refer to the instructions at the bottom of this section to find out if the amount is sufficient. If it isn't, go back to Chapter 3 for suggestions.

**Paragraph 1:** Self-explanatory, calling for the U.S. citizen to fill in his or her name and address.

**Question 1:** Self-explanatory.

**Question 2:** Self-explanatory.

**Question 3:** This is for information about you, the intending immigrant. "Marital Status" should, of course, be "single," since you are coming to the United States for the specific purpose of getting married. "Relationship to Sponsor" asks what relation you are to the U.S. citizen. Enter "fiancé" if you are a man and "fiancée" if you are a woman. The "spouse" line should be left blank, but if any children will be immigrating with you, enter their information on the following lines.

**Question 7:** Back to the U.S. citizen, who must enter information about his or her place of employment. For "type of business" one may enter one's position (such as "secretary" or "accountant") or a more generic description, such as "medicine" or "sales."

On the next set of lines, the U.S. citizen enters his or her income and assets. The question about the amount "**on deposit in savings banks in the United States**" is a little misleading, because it's

okay to also include amounts in checking accounts. For "**personal property**," the U.S. citizen doesn't need to consider the value of every item he or she owns. An approximate total value on his or her cars, jewelry, appliances (stereo, television, refrigerator), automobiles, cameras, and other equipment will do. Nor does he or she have to supply proof of their ownership—yet. But when it comes time for the green card application in the United States, the U.S. citizen sponsor will have to provide proof of ownership of any assets that he or she uses to show financial capacity—so it's best not to exaggerate on Form I-134.

**Question 8:** Anyone whom the sponsor has listed on his/her tax returns should be entered here.

**Question 9:** This question attempts to find out whether the U.S. citizen is overextending him, or herself financially. If he or she has filled out this form or Form I-864 (the Affidavit of Support used in green card applications) on behalf of any other immigrant, these lines should be filled in.

**Question 10:** For the reasons that underlie Question 9, the U.S. government wants to know whether the U.S. citizen is planning to sponsor anyone else, having filed a visa petition on their behalf. Even if you are the only person being sponsored, the U.S. citizen should fill in your name here, with a notation by your name saying "subject of this affidavit."

**Question 11:** Enter "N/A" (not applicable). This is only for visitors that are truly temporary, such as tourists.

**Oath or Affirmation of Deponent.** Here is a lovely example of excruciating legalese. Don't try to puzzle this out; just take the form to a notary public, where you will sign it. A notary public is someone who is legally authorized by a state government to check a person's identification and make sure that the person signing the document is the one who is named as the person who should sign. To convince a notary of his or her identity, the U.S. citizen should bring a driver's license or other form of photo identification. The notary will then ask your U.S. citizen fiancé to sign the form, and will place a stamp on it. The notary shouldn't charge more than around \$15 for this service. Notaries can easily be found by looking in the Yellow Pages of your phone book.



## Form I-134, Affidavit of Support—Page 1

U.S. Department of Justice  
Immigration and Naturalization Service

OMB No. 1115-0062

## Affidavit of Support

*(Answer All Items: Fill in with Typewriter or Print in Block Letters in Ink.)*

I, \_\_\_\_\_ residing at \_\_\_\_\_  
(Name) (Street and Number)

(City) (State) (Zip Code if in U.S.) (Country)

## BEING DULY SWORN DEPOSE AND SAY:

1. I was born on \_\_\_\_\_ at \_\_\_\_\_  
(Date) (City) (Country)

If you are **not** a native born United States citizen, answer the following as appropriate:

- If a United States citizen through naturalization, give certificate of naturalization number \_\_\_\_\_
- If a United States citizen through parent(s) or marriage, give citizenship certificate number \_\_\_\_\_
- If United States citizenship was derived by some other method, attach a statement of explanation.
- If a lawfully admitted permanent resident of the United States, give "A" number \_\_\_\_\_

2. That I am \_\_\_\_\_ years of age and have resided in the United States since (date) \_\_\_\_\_

3. That this affidavit is executed in behalf of the following person:

Name	Gender	Age
Citizen of (Country)	Marital Status	Relationship to Sponsor
Presently resides at (Street and Number)	(City)	(State) (Country)

Name of spouse and children accompanying or following to join person:

Spouse	Gender	Age	Child	Gender	Age
Child	Gender	Age	Child	Gender	Age
Child	Gender	Age	Child	Gender	Age

- That this affidavit is made by me for the purpose of assuring the United States Government that the person(s) named in item 3 will not become a public charge in the United States.
- That I am willing and able to receive, maintain and support the person(s) named in item 3. That I am ready and willing to deposit a bond, if necessary, to guarantee that such person(s) will not become a public charge during his or her stay in the United States, or to guarantee that the above named person(s) will maintain his or her nonimmigrant status, if admitted temporarily and will depart prior to the expiration of his or her authorized stay in the United States.
- That I understand this affidavit will be binding upon me for a period of three (3) years after entry of the person(s) named in item 3 and that the information and documentation provided by me may be made available to the Secretary of Health and Human Services and the Secretary of Agriculture, who may make it available to a public assistance agency.
- That I am employed as, or engaged in the business of \_\_\_\_\_ with \_\_\_\_\_  
(Type of Business) (Name of concern)

at \_\_\_\_\_  
(Street and Number) (City) (State) (Zip Code)

I derive an annual income of (if self-employed, I have attached a copy of my last income tax return or report of commercial rating concern which I certify to be true and correct to the best of my knowledge and belief. See instructions for nature of evidence of net worth to be submitted.)

I have on deposit in savings banks in the United States

I have other personal property, the reasonable value of which is

\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_

OVER

Additional pages not shown.

### Is the Total Support Amount Sufficient?

Technically, Form I-134 only covers your first 90 days in the United States, so the consulate may not require your U.S. citizen fiancé to show a certain income level—despite the fact that they’ve asked him or her to fill out this form. However, it’s wise to look at the income levels that USCIS will ultimately look for at your final green card interview in the United States. There is a chance that the consular officer will apply the same standard.

Go back to the form you’ve filled out and follow these steps.

1. Total up all the assets listed (everything except income).
2. Subtract the mortgages and encumbrances, and divide that total by five.
3. Add this figure to the amount of income.
4. Total up the number of people that the U.S. citizen will have to support. This should include: the citizen, the immigrant, and any children immigrating at the same time, and any additional persons listed in Questions 8 and 9.
5. Check the *Poverty Guidelines* chart located in Chapter 3, Section A. In the left column, find the line corresponding to the number of people that the U.S. citizen is responsible for supporting (the number you calculated in step 4). Now look to the right column. That’s the total amount of income plus assets that the U.S. government will want to see when you apply for your green card. If your U.S. citizen fiancé’s income and assets (the sum you calculated in step 3) don’t reach that level, reread Chapter 3.

Some good news is, however, that by the time you’ve reached your U.S. green card interview, you will have had a work permit for several months, and can contribute to the household income.

### iii. Form DS-1858

This form is not included in this book. Use the form that you receive from the U.S. consulate (if the consulate requires it).

There isn’t much to fill in on this form. As you’ll see, it mostly asks you to read information regarding the responsibilities of the person who signs the Affidavit of Support. The U.S. citizen sponsor simply needs to enter his or her name and certain other vital information and sign at the bottom. Check the consulate’s instructions carefully; they may require the sponsor to notarize the form as well.

## b. Document Instructions for Appointment Package

This section contains detailed instructions about some of the documents on the Checklist for Fiancé Appointment Package in Subsection f, below.

### i. Copy of U.S. Citizen’s Most Recent Federal Tax Return

As part of proving that your fiancé can support you financially, he or she will probably be asked to provide a complete copy of his or her federal tax return, including the W-2 slips. There is no need to include the state tax form.

The consulate prefers to see the tax return in the form of IRS transcripts (an IRS-generated summary of the return that your U.S. citizen fiancé filed), which your fiancé can request using IRS Form 4506, available through the IRS website at [www.irs.gov](http://www.irs.gov) or by calling 800-TAX-FORM (800-829-3676). However, it is usually a wait of several weeks to get the transcript. Don’t let this hold up the immigration process. If the transcript hasn’t come by the time of your interview, simply use your U.S. citizen petitioner’s own copies of the tax returns.

### ii. Letter From U.S. Citizen’s Bank(s) Confirming the Account(s)

The U.S. citizen should ask all of his or her banks reported on page one of Form I-134 to draft simple letters confirming the accounts. The letters can be addressed “To Whom It May Concern,” and should state the date the account was opened, the total amount deposited over the last year, and the present balance.

Banks will often (without your asking) also state an average balance. Be aware that if this is much lower than the present amount, the consulate will wonder whether the U.S. citizen got a quick loan from a friend to make the financial situation look more impressive.

### iii. Employer Letter

Here is a sample of a letter from the sponsor's employer. This letter should accompany Form I-134.

#### Sample Letter From Employer

Hitting the Road Trucking  
222 Plaza Place  
Outthereville, MA 90000

May 22, 200x

To Whom It May Concern:

Ron Goodley has been an employee of Hitting the Road Trucking since September 4, 200x, a total of over five years. He has a full-time position as a driver. His salary is \$45,000 per year. This position is permanent, and Ron's prospects for performance-based advancement and salary increases are excellent.

Very truly yours,

*Bob Bossman*

Bob Bossman

Personnel Manager

Hitting the Road Trucking

- your vaccination records, and
- photo identification—the doctor must make sure you don't send a healthier person in your place. You may also be requested to bring a passport-style photo.

The doctor will examine you, ask you questions about your medical and psychiatric history and drug use, and test you (including blood tests and chest X-rays). Pregnant women can refuse the chest X-ray until after the baby is born if they have no symptoms of tuberculosis. When the laboratory results are in, the doctor will fill out the appropriate form and return it to you in a sealed envelope. DO NOT open the envelope—this will invalidate the results. The doctor should supply you with a separate copy of your results, or tell you whether any illnesses showed up.



If you want to plow through the government's technical guidance on the medical exam, it's published by the Centers for Disease Control (CDC). You can call 800-311-3435 and ask for a copy of the *Technical Instructions for Medical Examination of Aliens*, or they can be found at [www.cdc.gov/ncidod/dq/technica.htm](http://www.cdc.gov/ncidod/dq/technica.htm) on the Internet.

### c. Where You'll Take Your Appointment Package

On the day of your interview, you will be expected to arrive at the consulate with forms and documents in hand, according to the consulate's instructions. After you've attended your interview and been approved, the consulate will give you a visa to enter the United States. Ideally you'll receive the visa within a day or two of your interview, but recent delays for FBI and CIA security checks have been adding weeks to the process, especially for people with common names.

Actually, your visa will be a thick, sealed envelope, stuffed full of most of the forms and documents that you've submitted over the course of this process.

To prepare for your interview, you'll not only want to read the sections on filling out the forms and gathering documents below, but also read

### iv. The Medical Exam

To prove that you are not inadmissible for medical reasons, you will have to present the results of a medical exam done by a doctor approved by the U.S. consulate. Your Appointment Package will give you complete instructions on where and when to visit the appropriate clinic or doctor. There will be a fee of about \$100.

When you go for your medical exam, make sure to bring the following:

- your visa appointment letter
- the doctor's fee

Chapter 13, Interviews With USCIS or Consular Officials.



**Do not open the envelope!** Your visa envelope must be presented to a U.S. border official before it is opened. If you open it, the immigration officials will probably assume that you've tampered with it. At best, the border official might send you back to the consulate for another try; at worst, he or she might accuse you of visa fraud and use summary exclusion powers to prohibit you from entering the United States for the next five years.

#### d. After You Receive Your Fiancé Visa

Once you receive your fiancé visa, you'll have six months to enter the United States. At the U.S. port of entry, the border officer will examine the contents of your visa envelope and ask you a few questions. Though this part shouldn't be a problem, don't treat it lightly. If the official spots a reason that you shouldn't have been given the fiancé visa, he or she has the power—called expedited removal—to deny your entry right there. You would have no right to a lawyer or a hearing, but would simply have to turn around and find a flight or other means of transport home. And you wouldn't be allowed back for five years (unless the border officials allowed you to withdraw the application before they officially denied it, which is entirely at their discretion).

After advice like this, the hardest thing to hear is “just stay calm.” It may be impossible to control your beating heart—but whatever you do, don't start speaking more than is necessary. The worst thing someone could do at this stage is to make a nervous little joke like, “Yeah, I'll see if I still like him, and maybe I'll marry him.” Border officials are not known for their sense of humor, and a statement like this could be used as a reason to deny your entry.

Assuming all goes well, the border official will stamp your passport with your K-1 fiancé status, and give you a small white I-94 card showing the 90-day duration of your visa. If you plan to work in the United States, ask if the official can also stamp your passport for work authorization. (Otherwise you'll

have to go through a lengthy and sometimes fruitless application process, described in Section I1 below.) The border officials seem to be phasing out this employment stamp, but there is no harm in asking.

#### e. When to Marry and Apply for Your Green Card

You should start working on your green card application as soon as you arrive in the United States. USCIS expects you to file it before the 90-day expiration of your fiancé visa. (For complete instructions, see Chapter 14.)

In fact, it's a good idea to get married fairly soon after your arrival. Doing so will give you the maximum amount of time after your marriage to prepare the green card application (which is even longer than the fiancé visa application). You'll also need to assume that the local government authorities may take a while (up to three months) to produce their final version of your marriage certificate, which you'll need for the green card application.

Contact your local (usually county) registrar, recorder, or vital records office before you get married to find out their time estimate. Ask whether there is any way to speed up the process. In some areas, couples have found that by hand-carrying the certificate that they receive at the wedding ceremony to the county office, they can shave weeks off the processing time.

#### f. Using the Checklist for Your Fiancé Appointment Package

Which forms you are required to prepare for your Fiancé Appointment Package may vary among consulates. The ones listed on the checklist below are those most commonly required. You can strike off any that you don't receive from the consulate, and proceed to use the checklist as usual.

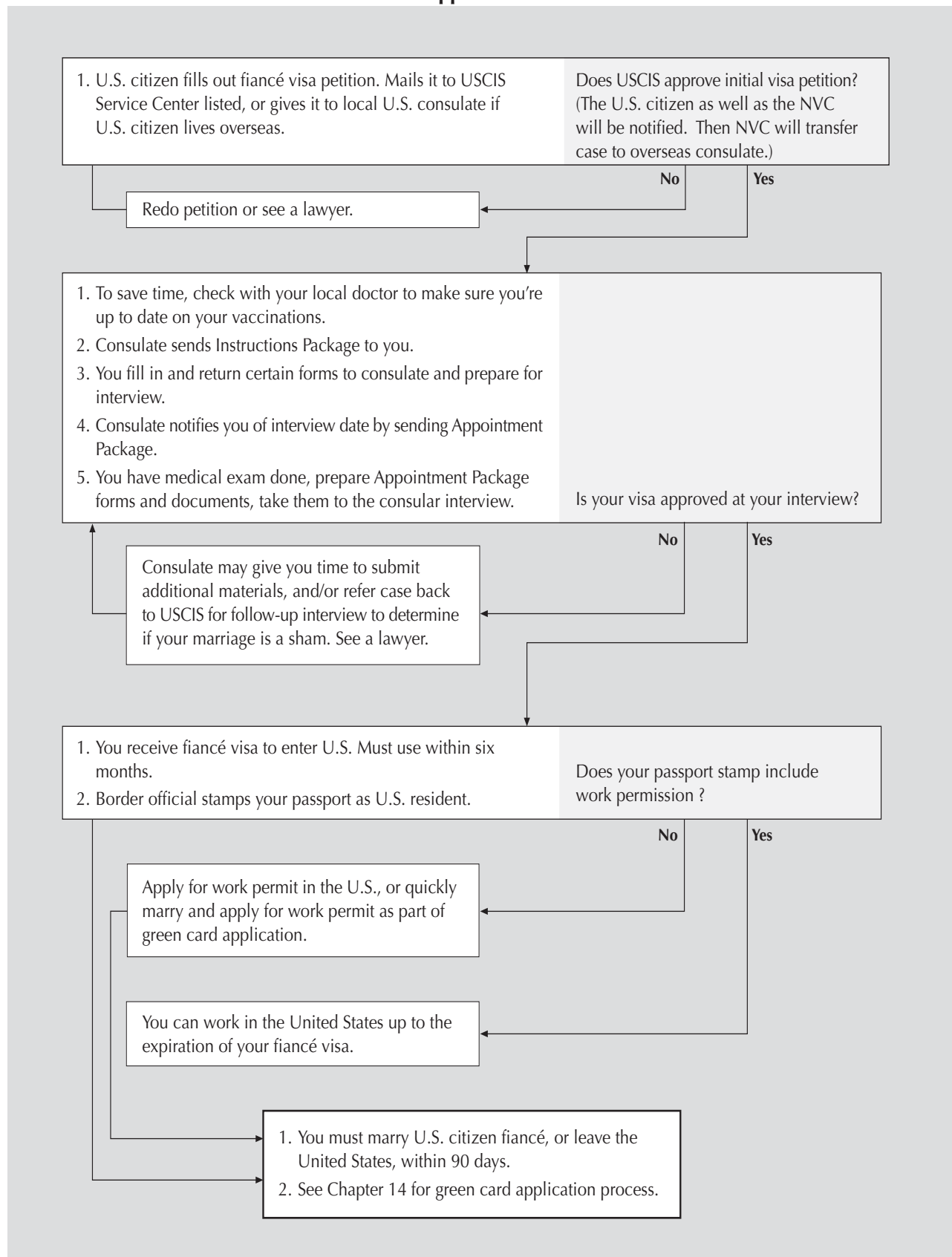


The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

### Checklist for Fiancé Appointment Package

- ☐ Original INS or USCIS Notice of Action approving your K-1, or fiancé, visa petition
- ☐ A complete copy of your Fiancé Visa Petition (the items in the checklist in subsection 1e, above) in case USCIS did not forward it to the consulate
- ☐ Originals of documents submitted in connection with the visa petition, such as your fiancé's U.S. birth certificate and proof that any previous marriages were legally ended
- ☐ Form DS-230 Part II (see line-by-line instructions in Subsection a, above)
- ☐ Form I-134, Affidavit of Support, if the consulate requested it (see line-by-line instructions in Subsection a, above)
- ☐ Documents to accompany Form I-134, including:
  - ☐ Proof of U.S. citizen's employment (see sample letter in Subsection b, above)
  - ☐ Copy of U.S. citizen's most recent federal tax return (see further discussion in Subsection b, above)
  - ☐ Letter from U.S. citizen's bank(s) confirming the account(s) (see further discussion in Subsection b, above)
- ☐ Form DS-1858, Sponsor's Financial Responsibility Under the Social Security Act (see line-by-line instructions in Subsection a, above)
- ☐ A valid passport from your home country, good for at least six months
- ☐ Your original birth certificate
- ☐ An original police clearance certificate, if this is available in your country (the instructions from the consulate will tell you, or see the list in Appendix E)
- ☐ Three additional photographs of you, the immigrating fiancé (according to the consulate's photo instructions)
- ☐ Fingerprints (you'll receive instructions from the consulate)
- ☐ Results of your medical examination, in an unopened envelope (see Chapter 2, Section A, for more on the medical exam)
- ☐ Additional documents proving your relationship (to cover the time period since submitting the fiancé visa petition), such as copies of:
  - ☐ phone bills showing calls to one another
  - ☐ correspondence between you
  - ☐ photos taken together while one fiancé visited the other
- ☐ Any other items or forms requested by the consulate
- ☐ Application fee (currently \$100).

## Fiancé Visa Application Process



## H. How to Have Your Children and Pets Accompany You

Although your whole family cannot immigrate right now, U.S. laws and regulations do recognize the need for certain of your loved ones to accompany you to the United States and live there with you, including your children and certain pets.

### 1. Your Children

If you have unmarried children under age 21 who are interested in accompanying you to the United States and applying for green cards, review Chapter 2 to make sure they fit the basic eligibility requirements. This book does not cover in detail the application process for children. However, it is very similar to your own visa application process. Once you've become familiar with the process, handling your children's applications should not be difficult. We'll give you some tips here to get you started.

All you have to do at the beginning of the fiancé visa application process is to include your children's names on Question 14 of the Fiancé Visa Petition (Form I-129F). The consular officials should then send you extra sets of the required forms for the children to fill out. If you don't receive these extra forms, contact the consulate. For young children, it's okay for you to fill out the form, and even sign it, on their behalf. (Just sign your name, then write *Parent of [name of your child].*)

Your children will probably be asked to attend your consular interview with you (although some consulates permit younger children to stay at home). The children will receive their visas on the same day you do. The technical name for their visa will be K-2 (if you're on a K-1) or K-4 (if you're on a K-3). The materials that children are normally asked to bring to the visa interview include:

- consular forms (not all provided in this book; follow the consulate's instructions)
- child's birth certificate
- child's police record (if the child is over age 16)
- child's passport (unless your country permits the children to be included on your passport)

- four photos of child, and
- medical exam results.

Even if your children don't accompany you when you first enter as a fiancé, they can join you under the same visa for a year after yours was approved. (Just make sure they remain unmarried and are still under the age of 21.) If they decide to follow you, they will need to contact the U.S. consulate. The consulate will verify your initial visa approval, ask your children to fill out the same forms that you did, interview them regarding their admissibility, and hopefully grant them a visa. The children will need to submit their green card applications in the United States before their visa expires. (For further information on the children's green card applications, see Chapter 14.)

If you have children who would just like to come for your wedding ceremony, they may be able to obtain a tourist visa. Talk to your local U.S. consulate about the application procedure.

### 2. Your Pets

Good news for your dog and cat, who may not have learned to sign their names yet—they won't need a visa. Bringing pets into the United States is not an immigration law matter. But before bringing any pets to the United States, you will need to check into U.S. customs restrictions. In general, pets will be allowed in if they are in good health and have had all the proper vaccinations. Certain more specific restrictions apply, however. For example, monkeys aren't allowed into the United States at all. Check with your local U.S. consulate for details, or read more at [www.customs.gov](http://www.customs.gov) (on the home page, click "Travel"; then click "leaving and arriving in the United States"; then look on the Publications list and click "Pets and Wildlife").

## I. Your Ninety Days on a K-1 Fiancé Visa

If you're reading this after getting your K-1 fiancé visa, congratulations! But don't stop reading. It's im-



portant to understand how to protect and enjoy your visa and how to continue the process toward obtaining a green card, if you plan to make your home in the United States.

## 1. Are You Permitted to Work?

In theory, fiancés have the right to work in the United States during the 90-day duration of their visa. In practice, taking advantage of this right is more complicated than it sounds.

If you were very lucky you may have received a stamp in your passport or on your I-94 card when you entered the United States that says “Employment Authorized.” In that case, you shouldn’t need anything further from USCIS in order to look for and accept work (though you should make a stop at a local Social Security office to get a number—see Subsection c, below). However, border officials appear to be losing their power to give out this stamp, so it’s quite possible you won’t get one.

### a. Whether You Should Apply for a Work Permit

If you didn’t get an “Employment Authorized” stamp, you can only work in the United States if, after entering, you apply for and receive a work permit. This is known by USCIS as an Employment Authorization Document, and it’s a small plastic card with your photo on it. For application procedures, see Subsection b, below; but first, keep reading for the reasons you might not want to apply.

The problem with applying for a work permit is that USCIS Service Centers routinely take from 45 to 90 days to issue them. This means that your chances of receiving your work permit while you’re still eligible for it, as the holder of a fiancé visa, are slim. In theory, a local District Office could process the form quicker, but most of them won’t accept fiancé work permit applications. A few have been known to accept them, so you should try your local USCIS office first.

You might be better off just getting to work on your Adjustment of Status application and submitting

it as soon as possible after you are married. Your local USCIS District Office should be able to give you a work permit on the same day or soon after you hand in the Adjustment of Status application.

### b. How to Apply for a Work Permit

To apply for a work permit, use Form I-765, Application for Employment Authorization. Print it out one-sided.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of this form.

Go straight to the last page of the form. This is the only page that you’ll have to submit.

Assuming this is your first work permit, under “I am applying for,” check “Permission to Accept Employment.”

**Questions 1-14:** Self-explanatory.

**Question 15:** You are a “K-1 Visa-holder.”

**Question 16:** Your eligibility category is (a)(6) as a fiancé. Sign your name in the section titled “Certification.” The following section is only for use by lawyers, paralegals, or anyone else who filled out the form for you.

When you’re finished, check with your local USCIS District Office to see whether they’ll issue your work permit. They probably won’t. In that case, mail the form, the fee (currently \$175), two USCIS-style photos (see Appendix E), and proof of your fiancé visa status (such as a copy of your approval notice, the stamp in your passport, and your I-94 card) to the appropriate USCIS Service Center. The addresses of the Service Centers are in Appendix C.

### c. How to Get a Social Security Number

With the employment stamp in your passport or your new work permit in your wallet, you can visit your local Social Security office to get a Social Security number. You’ll need this number before you start work—your employer will ask for it in



order to file taxes on your behalf. To find your local Social Security office, check your phone book in the federal government pages or look on the Social Security Administration's website at [www.socialsecurity.gov](http://www.socialsecurity.gov). You'll need to show them either your K-1 fiancé visa or your work permit.

## **2. Are You Permitted to Leave the United States?**

If you are planning to make your home in the United States, don't count on leaving for the 18 months or more that it will take to get your U.S. residency. In particular, you shouldn't leave before your wedding.

### **a. You Can Use Your K-1 Visa Only Once**

A fiancé visa is good for only one entry, so you can't go out and come back on it. If an emergency comes up before your marriage and you have to leave, try to make time to apply for a travel document ("Advance Parole") at your local USCIS office, using Form I-131 (available in this book and on the USCIS website). If you leave without a travel document, the consulate may be able to revalidate your visa back in your home country, but they'll take a hard look at your situation first. You could end up having to start over with a new fiancé visa petition.

### **b. Leaving After You've Applied for a Green Card: Advance Parole**

In theory, once you've turned in your green card application, any departure from the United States automatically cancels that application. However, if you obtain special permission—called Advance Parole—the application won't be cancelled while you're away. Obtaining Advance Parole is usually fairly easy, though not guaranteed. Instructions for this application are included in Chapter 14, Section D.

Applicants who have spent any time in the United States without permission should not even think of

using the Advance Parole option. Advance Parole only keeps your application alive while you're gone, it doesn't guarantee your reentry to the United States. Any time you ask to enter the United States, the border officer has a chance to keep you out if he or she determines you are inadmissible. If, for example, you were late in filing for your green card by six months or more, the fact that you spent that amount of unlawful time in the United States could result in your being excluded for three or ten years. (For a review of penalties for unlawful stays in the United States, see Chapter 2, Section A.)

## **3. What Rights Do Family Members Have?**

Your children who accompanied you on your fiancé visa have basically the same immigration-related rights as you. They must either leave within the 90 days on their K-2 visas or, after you've married, file applications for green cards along with you. In order to obtain green cards, each child must submit a separate application. At no point in the process can they be included automatically within your application. However, if you and your children submit your green card applications at the same time, you'll normally be scheduled to attend your green card interview together. (For guidance on preparing green card applications for your children, see Chapter 14.)

## **4. Can You Renew or Extend Your K-1 Fiancé Visa Status?**

A K-1 fiancé visa cannot be renewed. You are expected to get married within the 90 days or leave the United States.

But if something happens and you weren't able to marry within the 90 days, go ahead and marry (if the marriage is still what you want). As long as USCIS hasn't caught up with you before you're ready to submit the application, you should be able to apply for your green card through normal procedures, as explained below.

### a. Filing Late for Your Green Card

If you marry after the 90 days permitted by your fiancé visa, your spouse will have to submit an I-130 visa petition on your behalf. This essentially puts you back at the beginning of the immigration process (though, because you're already legally in the U.S., the I-130 can be submitted with the rest of your green card application at a local USCIS office). The Form I-130 is very much like the Form I-129F which was submitted for you as a fiancé, showing your eligibility to immigrate (this time as the immediate relative (spouse) of a U.S. citizen, rather than as a fiancé) and your spouse's willingness to support your application. A fiancé who files within the 90 days would not have to worry about filing an I-130. (Instructions for preparing the I-130 as the spouse of a U.S. citizen living in the United States are included in Chapter 11.)

Another consequence of marrying after the 90-day expiration of your visa is that you will be living in the United States unlawfully. Although this is a serious concern, it is unlikely that USCIS will search you out anytime soon. They have higher enforcement priorities than going after people who will ultimately have the right to a green card, but are simply late in applying for it.



**Don't even think of leaving the United States if you've stayed six or more months past the expiration date on your fiancé visa.** If your 90 days is up and you still haven't filed your green card or Adjustment of Status application, you are in the United States unlawfully. However, leaving and starting the process over could be the worst thing to do at this point. If you have stayed in the United States more than six months beyond your visa expiration date, leaving would subject you to laws preventing your return for three or ten years. (See Chapter 2, Section A.)

### b. Filing in Immigration Court for Your Green Card

If you're late in getting married and turning in your green card application, and USCIS does catch up with you and places you in removal proceedings, it's not a complete disaster. You can apply for your green card in Immigration Court. The application paperwork is mostly the same. However, the law requires the judges to look even harder at your case than a USCIS officer would. That means you will have to do extra work to convince the judge that despite your late marriage, this marriage is bona fide, not a sham.



**If you're called into Immigration Court, you'll need a lawyer's help.** Going to court requires some knowledge of official court procedures, and the lawyer can help you prepare extra evidence that your marriage is bona fide. ■

## Overseas Fiancés of U.S. Permanent Residents

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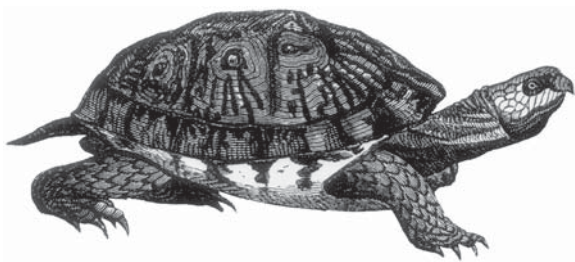
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If you are the fiancé of a U.S. lawful permanent resident (someone who is not a citizen) and you currently live outside the United States, your options are limited, whether you want to stay in the United States for a short time or permanently. There are no fiancé visas available for foreign nationals wishing to marry U.S. permanent residents. Fiancé visas are only available to people coming to the United States to marry U.S. citizens.

Don't lose hope, however. There are three ways to get yourself into the United States if you are the fiancé of a permanent resident. You can:

- Marry your fiancé first, then begin the entry process as a spouse of a permanent resident. This method is described in Section A.
- Wait until your fiancé becomes a U.S. citizen, and begin your entry process as a fiancé of a citizen. Section B covers this approach, or
- Come to the United States on a tourist visa and get married here (with the idea of returning home afterward). This strategy is described in Section C.

Each of these options has drawbacks, unfortunately. It may not be feasible to have your fiancé travel to you so that you can get married—and if you feel strongly about having your wedding in the U.S., this may not be what you want. And even after you're married, it will take a while before you can move to the United States. Waiting for your fiancé to become a citizen may take a similarly long time. And entering as a tourist will get you in—but you'll have to leave within six months. But these methods are the best we can offer, so take a look and see what's best for you.



**North Carolina**  
State Reptile: Eastern Box Turtle

## A. The Marriage Visa Option

If you plan to live in the United States permanently, the first thing you should do is to get married. It doesn't matter where you get married. You can have the ceremony in your home country, a third country, or in the United States, if you can get a tourist visa to come here (see Section C below for more on tourist visas).

After you are married, you will be eligible to immigrate to the United States as the spouse of a permanent resident. But first you will have to wait—and wait. Only a limited number of visas are given to spouses of U.S. permanent residents each year, and the demand for these visas is far greater than the supply. (For more on the waiting periods and other aspects of the process of applying as the spouse of a permanent resident see Chapter 8.) It can take three to five years or more to secure a visa this way.

You can't get on the waiting list for a marriage-based visa until you are married. But as soon as your spouse has your marriage certificate in hand, he or she can submit a visa petition that puts you in line. Unfortunately, you will not be allowed to live in the United States while you wait. You should marry as soon as possible in order to secure your place on the list.

## B. If Your Fiancé or Spouse Becomes a U.S. Citizen

If your permanent resident fiancé or spouse becomes a U.S. citizen, your ability to obtain a fiancé or marriage-based visa improves tremendously. The process of obtaining a visa itself takes time, but there are no waiting periods for beginning the process if you are the foreign-born fiancé or spouse of a U.S. citizen.

The quicker your fiancé or spouse becomes a citizen, the quicker you can enter the United States. Unless your fiancé faces some serious impediment to citizenship—like not knowing English or having a criminal record—he or she can help your immigration application by applying for citizenship as soon as



possible. A permanent resident can apply for U.S. citizenship five years after getting a green card (unless he gained permanent residence through political asylum or as a refugee, in which case the time period drops to four years or less). In fact, USCIS currently permits people to submit the application three months before the end of the required years (but no more than three months before, or they'll reject the application as premature when the applicant attends the interview).

There are other requirements to become a U.S. citizen, such as being of good moral character, having lived in the United States for at least half of the previous five years, being able to speak English, and passing a test covering U.S. history and government.



For more on the process and requirements of applying for U.S. citizenship, see the USCIS website at [www.uscis.gov](http://www.uscis.gov) and *Becoming a U.S. Citizen: A Guide to the Law, Exam and Interview*, by Ilona Bray (Nolo).

The decision whether to apply for U.S. citizenship is a personal one. Your fiancé may not be interested in U.S. citizenship, perhaps out of a sense of allegiance to his or her home country. Having a green card does allow your fiancé to live in the United States permanently (though a permanent resident can lose his or her right to a green card, by living outside the United States for too long, committing crimes, or otherwise becoming deportable). Your fiancé should know, however, that dual citizenship may be a possibility—if his or her home country allows it, so will the United States.

## 1. If You're Still Unmarried When Your Fiancé Becomes a Citizen

As the fiancé of a U.S. citizen, you will be eligible to apply for a fiancé visa. This will permit you to enter the United States, marry within 90 days, and apply for your green card in the United States. By applying as a fiancé, you'll avoid the waiting list for foreign spouses married to U.S. permanent residents (see Chapter 8 for more on the waiting lists).

However, unless you are extremely certain that your fiancé is about to become a citizen, it might be wiser to marry now and apply as the spouse of a permanent resident (see Section A, above). Your spouse's citizenship could be delayed or denied—leaving you nowhere. You would then have to marry and join the waiting list later than you otherwise could have.

## 2. If You're Already Married When Your Spouse Becomes a Citizen

The moment your spouse obtains citizenship, you become what is called an immediate relative. That means that you are immediately eligible for a marriage-based visa to enter the United States and obtain permanent residence, although the application process itself takes about a year. Alternately, you can use a special variant of the fiancé visa called a K-3 visa, which allows married couples to enter on temporary (nonimmigrant) visas, then do the remaining green card paperwork in the United States, just as a fiancé would.

You can apply for entry as an immediate relative no matter where you are in the immigration process. So, for example, if your spouse filed the application to put you on the visa waiting list when he or she was a permanent resident (Form I-130), all you'll have to do is tell USCIS about the grant of citizenship for you to jump off the waiting list and move forward in your progress towards a green card. Or, if you want to use the K-3 visa, your spouse would need to separately file a Form I-129F, but wouldn't have to file Form I-130 (which is normally part of the K-3 application procedure) a second time.

## C. Fiancés Coming as Tourists

Fiancés who only want to hold their marriage ceremony in the United States, knowing that they will not be permitted to remain here to apply for a green card, may be able to obtain a tourist visa (also called a visitor or B-2 visa). This is done at your local U.S. consulate. The application for a tourist

visa is not terribly complicated, and usually takes between one day and six weeks to obtain. You will be given up to a six months' permitted stay.

## 1. Problems Getting a Tourist Visa

Obtaining and using a tourist visa isn't a sure thing. First, you must convince the consular officer that you really plan to leave your new spouse and return home when your visa expires. You may be tempted to lie and say you are coming only as a tourist, not to get married. This is a bad idea. If the consular official or immigration officer at the border catches you in this lie, it will reinforce his suspicion that your true intention is to live in the United States permanently. You could be denied the tourist visa and accused of visa fraud—which would make it difficult, if not impossible, to eventually obtain your green card.

To convince a skeptical consular official that you intend to return to your home country, bring along:

- a copy of your lease or rental agreement
- a letter from your employer stating that you are expected back by a certain date, or
- copies of birth certificates from close family members remaining behind.

## 2. Problems at the U.S. Border With a Tourist Visa

Even after obtaining your tourist visa, you could face problems at the U.S. border. Even if the consular officer in your home country believed your plan to return home, the border official might not. If you meet with a reasonable official, this should be no problem—your use of a tourist visa is perfectly legal.

If you get an official who is inclined to be suspicious, however, it's another matter. The border officials have what are called expedited removal powers. This means that they can keep you out if they think you've used fraud, such as lying about your intentions to return home after the wedding. The border official has reason to be suspicious, since many people have used tourist visas as a way to enter the United States precisely for the purpose

of living here illegally while they wait to apply for their green card. Once you've been kept out of the United States this way, you may be prevented from returning for five years.

To prepare for the possibility of meeting a wary border official, bring along the same things you showed the consular officer in order to get the visitor visa, explained above in Section 1. Also make sure there is nothing in your luggage to contradict this evidence. If your luggage is searched and the official realizes you are carrying enough prescription medication for a three-year stay and a letter from your fiancé saying, "Can't wait until you are here and we can settle down in our new house," you will find yourself on the next return plane.

Unfortunately, there is no way to remove every element of risk—your entry to the United States depends on the perception and decision of a single border patrol official. It's as simple as that.

## 3. Staying in the U.S. on a Tourist Visa

No matter how you entered the United States, it will be natural for you to want to stay there with your new spouse after your marriage. You may even know people who have entered on tourist visas and ultimately been able to apply for a green card. However, because of recent changes in the immigration laws, this is no longer a workable plan, particularly for the spouses of lawful permanent residents as opposed to U.S. citizens.

As you may know, spouses of U.S. permanent residents are normally not eligible to stay in the United States during the years they are on the waiting list for a green card. And even if they do stay, they must leave the United States in most circumstances to perform the final step of the process, visiting a U.S. consulate to obtain an immigrant visa leading to permanent resident status. (There are exceptions to this; see "Waiting for Your Green Card in the U.S.," below.) So even if you managed to stay in the United States illegally, you would have to return to a U.S. consulate eventually.

"No problem," you might think, "I'll take my chances on living in the United States illegally until then." But the U.S. Congress thought of this possibility

too, and created a law to make you think twice. Once you leave to pick up your marriage-based visa at the U.S. consulate in your home country, the law will prevent you from coming back to the United States for a long time. (See Chapter 2, Section A.) If your illegal stay lasts six months or more, you won't be allowed back into the United States for three years. If your stay extends for one year or more, you will be kept out for ten years. That's a strong incentive to comply with the laws and wait for your immigrant visa outside the United States.

### Waiting for Your Green Card in the U.S.

Now and then, spouses of permanent residents who are waiting for a green card can live in the United States during the wait. These include immigrants with Family Unity and those who've received the new V visa.

Under Family Unity, spouses and children of people who got permanent residence through the Amnesty or Cuban/Haitian adjustment programs in the late 1980s can apply for the right to live and work in the United States while they're on the waiting list for a green card. There are not many spouses left who are still eligible for Family Unity, (most have already gotten their green cards), so it is not covered in detail here.

Under the new V visa (added by Congress in December 2000), certain spouses and children of permanent residents became able to apply for the right to live and work in the United States while on the visa waiting list. Most of them will ultimately be permitted to apply for their green card without leaving the United States. To qualify, the spouse or child must have already waited three years for approval of their visa petition and/or the availability of a green card, and their visa petition must have been submitted to the INS (as USCIS was then called) on or before December 21, 2000. You may want to see a lawyer if you think you qualify.

On the other hand, if your spouse becomes a U.S. citizen, and you've stayed in the United States as a tourist without getting caught, the law does allow you to file your green card (Adjustment of Status) application in the United States, without leaving. Since you wouldn't have to leave, you wouldn't face the time bars described above, which are only handed down once you're outside the United States. But you could have another problem. You could be denied your green card (or at least have to apply for a waiver first) for having misused your tourist visa, pretending to be a mere tourist when your intention was to stay in the United States permanently. You would need a lawyer's help to apply for a waiver of your visa fraud.



### Your Next Step

If you decide to get a tourist visa:	Learn the procedures from your local U.S. consulate. The application form is fairly simple. You will need to convince the consulate that you will return home after the wedding.
If you marry (abroad or in the U.S.) and file for permanent resident status:	See Chapter 8 covering overseas spouses of lawful permanent residents.
If you marry (abroad or in the U.S.) and your spouse becomes a U.S. citizen:	See Chapter 7 for overseas spouses of U.S. citizens.





## Overseas Spouses of U.S. Citizens

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3. Your Pets .....	7/45

If you are married to a U.S. citizen and are living overseas, you are called an “immediate relative” in immigration law terminology. Your road to a green card, via a “marriage-based” visa, should be fairly smooth. There are no waiting periods or quotas for people in your category. Your immigrant visa and green card are available to you as soon as you can get through the application procedures, which usually take at least a year, and more often 18 months.

However, one of your first tasks is to decide which set of application procedures to use. You have two choices: the old-fashioned “immigrant visa,” meaning that you’d complete all of your paperwork overseas and enter the U.S. with full rights as a permanent resident (see Section B, below); or the newer, “K-3” nonimmigrant visa, which is an adaptation of the fiancé visa (see Section C, below). The K-3 visa would allow you to enter the United States on a temporary basis, then leave it up to you to submit the paperwork for “Adjustment of Status,” or a green card after arriving.

## A. Marriage-Based Visas

A marriage-based visa or green card is available to anyone whose marriage to a U.S. citizen is real and legally valid, and who is not inadmissible for any other reason. (See Chapter 2, Section B, if you need to review the eligibility criteria.)

If you’ll be applying for a K-3 visa, however, there’s one additional requirement to consider—you may apply for your visa only at a consulate in the same country where you held your wedding (or, if you got married in the United States, at a consulate in the country where you (the immigrating spouse) now live). That means if you held your wedding in Italy, but now live in Thailand, using a K-3 visa could be rather inconvenient, since you would have to travel to Italy for the visa interview.

### 1. Comparing Immigrant Visa and K-3 Visa

Whether you apply for an immigrant visa or a K-3, your initial application to come from overseas will be reviewed by a USCIS office in the United States. It will then be transferred to a U.S. consulate in your home

country. The final decision will be made by the consulate, after interviewing you personally.

For immigrant visas, it usually takes between a year and 18 months from the initial filing with USCIS until the consulate’s final decision. However, your application could go faster or slower, depending on a variety of factors including the complexities of your case and the efficiency and workload of your spouse’s nearest USCIS Service Center and the U.S. consulate in your country. (The slow end of things is discussed in more detail in Chapter 15, *Dealing With Bureaucrats, Delays, and Denials*.)

For K-3 visas, it usually takes about six to eight months between the initial filing with USCIS and the consulate’s decision to give you a visa. That gives you a definite time advantage over the immigrant visa. As always, however, these time estimates may vary, depending mostly on the workloads of the offices handling your file. Remember also that you’ll likely spend at least another year or more dealing with the U.S. government after you arrive in the United States and apply for your green card.



**The urgency you feel to get settled into your new home is not shared by the government officials who’ll be dealing with your application.**

They’ve long since gotten used to the fact that they have thousands of applications to get through. Once in a while, a miracle will happen; but usually your green card application will take longer than you ever imagined.

## 2. Conditional Residence for Newer Couples

If you’ve been married for less than two years when you either arrive in the United States on an immigrant visa or are approved for a green card (Adjustment of Status) after arriving on a K-3 visa, you will begin life in America as a conditional resident. Your conditional residency will expire after a two-year “testing” period. Just before the expiration date, you will have to apply for permanent status. USCIS will review your file at that time and might decide to interview you and your spouse, to find out whether your marriage is real. If USCIS determines your marriage is not real, you could lose your status entirely and have to leave the United States.



If your marriage is already two years old when you either arrive at the U.S. border (with an immigrant visa) or get approved for a green card (after a K-3 entry), you will receive permanent residency and won't have to worry about your status expiring (although the actual card will need to be replaced once every ten years).

### Stay Put During the Application Process

Once this process has started, you're better off if you don't change addresses or take any long trips. USCIS or the consulate could send you a request for more information or call you in for your interview at any time. Missing such a notification could result in long delays in getting your visa application back on track.

If you do change addresses, be sure to send notification to the last USCIS or consular office you heard from. But don't assume they'll pay attention. USCIS and the consulates are notorious for losing change-of-address notifications. So, as a backup plan, make sure to have your mail forwarded or check in regularly with the new people living in your former home.

Many couples wish that they could take a quick trip to the United States while waiting for their immigrant visa to be granted. Unfortunately, once you've submitted any part of your immigrant visa application, you're unlikely to be granted a tourist visa. This is because the consulate will probably believe that your real intention in using the tourist visa is to apply for your green card in the United States, which is an inappropriate use of the tourist visa and could be considered visa fraud.



**It's never too soon to get your vaccinations up to date.** Before you're allowed to enter the United States, you'll have to prove that you've had all the necessary vaccinations. (The ones you'll need are listed in Chapter 2, Section A.) Check with your local doctor now so that you're not stuck later waiting weeks while a series of shots is administered.

## B. The Marriage-Based Immigrant Visa Application Process

If you're reading this section, it means that you have determined that you are eligible for a marriage-based immigrant visa and are ready to find out exactly how to get it. But first, a warning: This application process is a bit like harnessing yourself to a turtle. It's going to move slowly, and to succeed you'll have to hang on for the whole bumpy ride. This chapter gives you a map for that ride and clues you in to a few shortcuts.

### 1. The Four Steps to an Immigrant Visa

Obtaining a marriage-based visa and green card involves four major steps:

1. First, your U.S. citizen spouse submits a visa petition to USCIS in the United States. (Some consulates allow people to file the petition with them instead. Subsection 3a(1), below, explains this "direct processing" method.)



**Arkansas/Missouri/Oklahoma**  
State Musical Instrument: Fiddle

2. Second, you fill out forms from an Instruction Package sent to you by the National Visa Center (NVC) and return them to your local U.S. consulate.
3. Third, you fill out some more forms sent by the consulate (the Appointment Package) and present them at an interview at a U.S. consulate in your home country, where you receive your immigrant visa (then or soon after), and
4. Fourth, you present your visa at a U.S. border where it is examined. Assuming you are approved, your passport will be stamped for U.S. residency (in other words, you get your green card status).

In rare instances, USCIS will ask your spouse to attend a “fraud interview” if they or the consulate have doubts about your marriage being the real thing. This could happen as part of Step One or after Step Three.

This entire process takes at least a year. In fact, USCIS often takes a full year just to approve the initial visa petition. Then you’ll normally have to wait another two months to receive the follow-up paperwork (Step Two, Instruction Package) from the NVC, and another three months until the consulate in your home country calls you for your interview (Step Three, Appointment Package).

## 2. Sidestepping Step One: Direct Consular Filing

You’ll notice that Step One normally involves getting an initial approval from a USCIS Service Center in the United States. This step usually takes at least a few months and can take a year or more. However, one of the best-kept secrets in the immigration law world is something called Direct Consular Filing or DCF, which allows you to avoid using these Service Centers. With DCF, the U.S. consulate in your home country accepts all the paperwork from you and your spouse. This is a huge advantage, because it shaves months off the decision-making time. In countries where DCF is offered, the entire application process, from Step One through Step Three, can take as little as three months’ time.

DCF is nowhere close to being available worldwide, and there’s no list to tell you where it is available. Check with your local consulate to see if they allow DCF and what limitations they place on it. The most common limitation is that the U.S. citizen spouse must be living in the country where the consulate is located. The instructions in this book assume that DCF is not offered in your country. But if it is, no problem—the paperwork we describe in Steps One through Three is the same. Simply talk to your local consulate about their procedures for receiving and deciding on your application.

## 3. Step One: The I-130 Visa Petition

Unless you are using DCF, your U.S. citizen spouse will initiate the green card application process by filing a visa petition—Form I-130, Petition for Alien Relative and attached documents—with a USCIS Service Center in the United States.

We’ll go through how to prepare and assemble the various forms and documents, one by one. To keep track of them all, use the “Checklist for Marriage-Based Immigrant Visa Petition” in Subsection f, below. A few items on this checklist are self-explanatory, so they aren’t discussed in the following text.

### a. Line-by-Line Instructions for Form I-130 Visa Petition

This section will give you precise instructions for filling out the three forms that are required in Step One. Before proceeding, take a look at the general instructions for printing and filling out USCIS immigration forms in Chapter 4. Also, whoever reads these instructions should have a copy of the appropriate form in hand.

#### i. Form I-130

Form I-130 is one of the most important ones in your immigration process. It will be your spouse’s first opportunity to explain who each of you are, where you live, and why you qualify for a visa.

## Petition for Alien Relative

Additional pages not shown.

The Form I-130 is normally printed out two-sided, head to foot, on pastel yellow paper. The first thing to notice about Form I-130 is that it runs in two columns (except for the tiny Part A near the top). The left column, or Part B, asks for information about the petitioner—that's your U.S. citizen spouse. Don't be thrown off by the fact that the form addresses your spouse as "you"—after all, it's your spouse who fills out this form. The right column asks for information about you, referred to as the relative.



Form I-130 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

### Part A

**Question 1:** Check the first box, Husband/Wife.

**Question 2:** This question, about whether you're related by adoption, is meant for people who use this form to petition for an adopted child. We're assuming you can answer this question "No."

**Question 3:** If your petitioning spouse gained permanent residence through adoption (if he or she immigrated to the United States before becoming a citizen), check **Yes**. But no matter which box you check, it won't affect the application, since this question is mainly directed at people immigrating through parent/child relationships—something not covered in this book.

### Part B

**Question 1:** The petitioning spouse must enter his/her last name (surname) in capital letters, but the first and middle name in small letters. For example, Sam L. Cole would write COLE, Sam L. Your spouse should use his/her current married name if it was changed at the time of your marriage. (If you have questions about how to list your name, see "What's Your Name?" in Chapter 4, Section B).

**Questions 2-5:** Self-explanatory.

**Question 6:** This refers only to the petitioning spouse's most recent marital status, so he or she should only check married, even if there was a previous divorce.

**Question 7:** See "What's Your Name?" in Chapter 4, Section B.

**Question 8:** Self-explanatory.

**Question 9:** Self-explanatory.

**Question 10:** A U.S. citizen can put N/A here, even if he or she was once a lawful permanent resident and had an Alien Registration Number (known as an A-Number).

**Question 11:** Self-explanatory.

**Question 12:** This question of when your spouse's prior marriage ended is intended to make sure your current marriage is valid. If your petitioning spouse's prior marriage(s) ended after your present marriage began, yours is not a lawful marriage. If your petitioning spouse has just discovered that the divorce wasn't final when your marriage took place, it may not be necessary to run to a lawyer. Assuming that the divorce has since become final, you can simply correct the problem by remarrying. (If there was fraud involved in your hasty marriage, consult a lawyer before proceeding.)

**Question 13:** If your petitioning spouse is a naturalized U.S. citizen (meaning he or she wasn't born a citizen, but became one after an application and exam), his or her number can be found at the top right-hand side of the naturalization certificate. The date and place issued are also shown on the certificate.

**Question 14a:** U.S. citizens can write N/A here.

**Question 14b:** If your petitioning spouse checks "yes" here, indicating that he or she received U.S. permanent residence through marriage, calculate how long it has been since your spouse's approval for permanent residence. A petitioning spouse who immigrated through marriage cannot petition a new spouse for five years, unless the first spouse died or your spouse can prove by "clear and convincing evidence" that the previous marriage was bona fide (real). USCIS is concerned that the first marriage was just a sham, with the long-term goal of getting both of you into the United States by piggybacking on a sham marriage. To prove that the first marriage was bona fide, your spouse should enclose documentary evidence showing that he and his former spouse shared a life, such as



shared rent receipts, club memberships, children's birth certificates, utility bills, and insurance agreements. As for what makes for "clear and convincing" evidence, this is one of those legal standards that is easy to state but hard to pin down. The bottom line is, a spouse in this situation will have a hard time persuading a suspicious government official that his or her previous marriage was bona fide.

### **Part C: (Now referring to you, the immigrant beneficiary)**

**Question 1:** Your current name, with your last name (surname) in capital letters. (If you have any doubt about what name to use, see "What's Your Name?" in Chapter 4, Section B.)

**Questions 2-5:** Self-explanatory.

**Question 6:** Your current marital status only.

**Question 7:** See "What's Your Name?" in Chapter 4, Section B.

**Question 8:** Self-explanatory.

**Question 9:** You won't have a Social Security number until you have lived in the United States and have had a work permit, a visa allowing you to work or U.S. residence. If you don't have a Social Security number, just write N/A.

**Question 10:** The Alien Registration Number is an eight-digit number following a letter A that USCIS (or the formerly named INS) will have assigned to you. You won't have one yet unless you've previously applied for permanent (or, in some cases, temporary) residence or been in deportation/removal proceedings. Of course, if your previous application was denied because you were inadmissible or you lied on that application, you should call a lawyer before going any further.

**Question 11:** Self-explanatory.

**Question 12:** See advice to Question 12 on Part B, above.

**Question 13:** Self-explanatory.

**Question 14:** Enter N/A here, since you are living outside the United States.

**Question 15:** State your employer's name and address.

**Question 16:** If you've been placed in Immigration Court proceedings, see a lawyer, particularly if you lost.

**Question 17:** This is the continuation of Part C, so all questions still refer to you, the immigrant beneficiary. Since your spouse is already covered in this application, just list your children, if any. This means all your children, including any by previous relationships.

**Question 18:** Self-explanatory. Hopefully, you intend to live at your spouse's address, or USCIS will raise questions.

**Question 19:** Self-explanatory.

**Question 20:** If your native language uses a non-Roman script (for example, Russian, Chinese, or Arabic), you will need to write your name and address in that script.

**Question 21:** Self-explanatory.

**Question 22:** You don't need to answer this question, since you'll be arriving from overseas on an immigrant visa. USCIS will figure out which consulate your case will be sent to, based on where you live. If your country doesn't have diplomatic relations with the United States, USCIS will locate a consulate in a nearby country to handle your case. (**Note:** You'd handle this question differently if you were applying for a K-3 visa, instead; K-3 applicants who have been referred to this section should refer back to the special instructions in their own section.)

### **Part D: Other Information.**

Now we're back to questions to be answered by the petitioning spouse.

**Question 1:** This refers to other petitions being submitted simultaneously, (for example, for your children from this or other marriages), so that USCIS can process the petitions together.

**Question 2:** This question is meant to uncover the U.S. spouse's history (if any) of petitioning other immigrants to come to the United States. As you can probably imagine, if the petitioning spouse has a history of short marriages to people whom he/she then helped to obtain green cards, you can expect a major marriage fraud investigation. Consult a lawyer before proceeding.

**Signature Line:** The U.S. petitioning spouse signs here.

**Signature of Person Preparing Form If Other Than**

**Above.** If you or your spouse is filling out your own application, write N/A here. A little typing assistance or advice from a friend doesn't count—the only people who need to complete this line are lawyers or agencies who fill out these forms on others' behalf.

**ii. Form G-325A**

You and your spouse must each fill out this form. The information will allow the U.S. government to check your background. Most of the form is self-explanatory. If you really can't remember or are unable to find out an exact date, enter whatever you can remember, such as the year. Alternately, you can simply say "unknown," but if you overuse the "unknowns," USCIS may return your entire application for another try. Since the questions aren't numbered, we refer to them by the approximate line.



Form G-325A is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

This form is single-sided. You'll need to prepare four exact copies. These are traditionally done on white, pastel green, pastel pink, and pastel blue paper; but with the easing of USCIS printing rules, four white copies will probably be accepted. If you want to be extra careful, use colored sheets. Your spouse needs to submit only a single copy of this form, on white paper.

**Line 1 (Family Name, etc.):** Self-explanatory.

**Line 2 (Father/Mother):** Self-explanatory.

**Line 3 (Husband or Wife):** Self-explanatory.

**Line 4 (Former Husbands or Wives):** Self-explanatory.

**Line 6 (Applicant's Residence Last Five Years):** Be careful here. These need to be in reverse chronological order, starting with your most recent address and working your way down the last five years. Practice making this list on another sheet of paper before you enter the information here. For example, if you live in Munich now but lived in

Bonn before, your Munich address would go on the top line.

**Line 7 (Applicant's Last Address Outside the United States of More Than One Year):** This may overlap with one of the addresses in Line 6—that's okay.

**Line 8 (Applicant's Employment Last Five Years):**

Again, be careful to put this in reverse chronological order. If you've been unemployed, self-employed, or were a housewife or house-husband, say so here—in other words, try not to leave anything blank.

**Line 9 (Show below last occupation abroad if not listed above):** This question asks you to list your last overseas job—but only if you didn't already list it on Line 8. People tend to overlook this line, because it's so small—make sure you don't accidentally skip over it.

**Line 10 (This Form Is Submitted in Connection With Application For):** Your U.S. citizen spouse should check "other" and write "in support of spouse's I-130." You should check "status as permanent resident."

**Line 11 (If your native alphabet uses non-Roman letters):** Self-explanatory.

**Line 12 (The large box):** Self-explanatory.



**Oregon**

State Insect: Oregon Swallowtail



## Form G-325A, Biographic Information

U.S. Department of Justice  
Immigration and Naturalization ServiceOMB No. 1115-0066  
**BIOGRAPHIC INFORMATION**

(Family name)	(First name)	(Middle name)	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	BIRTHDATE (Mo.-Day-Yr.)	NATIONALITY	FILE NUMBER A-
ALL OTHER NAMES USED (Including names by previous marriages)			CITY AND COUNTRY OF BIRTH		SOCIAL SECURITY NO. (If any)	
FATHER MOTHER (Maiden name)						
FAMILY NAME		FIRST NAME	DATE, CITY AND COUNTRY OF BIRTH (if known)		CITY AND COUNTRY OF RESIDENCE.	
HUSBAND (if none, so state) OR WIFE						
FAMILY NAME (if none, so state) (if wife, give maiden name)		FIRST NAME	BIRTHDATE	CITY & COUNTRY OF BIRTH	DATE OF MARRIAGE	PLACE OF MARRIAGE
FORMER HUSBANDS OR WIVES (if none, so state)						
FAMILY NAME (For wife, give maiden name)		FIRST NAME	BIRTHDATE	DATE & PLACE OF MARRIAGE	DATE AND PLACE OF TERMINATION OF MARRIAGE	
APPLICANT'S RESIDENCE LAST FIVE YEARS. LIST PRESENT ADDRESS FIRST						
STREET AND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	FROM MONTH YEAR	TO MONTH YEAR
PRESENT TIME						
APPLICANT'S LAST ADDRESS OUTSIDE THE UNITED STATES OF MORE THAN ONE YEAR						
STREET AND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	FROM MONTH YEAR	TO MONTH YEAR
APPLICANT'S EMPLOYMENT LAST FIVE YEARS. (IF NONE, SO STATE) LIST PRESENT EMPLOYMENT FIRST						
FULL NAME AND ADDRESS OF EMPLOYER			OCCUPATION (SPECIFY)	FROM MONTH YEAR	TO MONTH YEAR	
PRESENT TIME						
Show below last occupation abroad if not shown above. (Include all information requested above.)						
THIS FORM IS SUBMITTED IN CONNECTION WITH APPLICATION FOR:						
<input type="checkbox"/> NATURALIZATION <input type="checkbox"/> STATUS AS PERMANENT RESIDENT			SIGNATURE OF APPLICANT			
<input type="checkbox"/> OTHER (SPECIFY):			DATE			
Submit all four pages of this form.			If your native alphabet is other than roman letters, write your name in your native alphabet here:			

PENALTIES: SEVERE PENALTIES ARE PROVIDED BY LAW FOR KNOWINGLY AND WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT.

**APPLICANT: BE SURE TO PUT YOUR NAME AND ALIEN REGISTRATION NUMBER IN THE BOX OUTLINED BY HEAVY BORDER BELOW.**

COMPLET THIS BOX (Family name) (Given name) (Middle name) (Alien registration number)

## b. Documents to Have on Hand for Visa Petition

The I-130 visa petition asks you to submit supporting documents and payment along with the form. You're not done with this form until you have gathered together the following:

- **Proof of the U.S. Citizen Status of Your Petitioning Spouse.** Depending on how your spouse became a citizen, he or she should copy a birth certificate, passport, certificate of naturalization, or Form FS-20 (Report of Birth Abroad of a United States Citizen).
- **Photos.** For the USCIS instructions on photos (what size and how to pose) see Form M-378, in Appendix E. However, USCIS regulations permit you to submit a photo that doesn't completely follow the instructions if you live in a country where such photographs are unavailable or cost prohibitive.
- **Fees.** The current fee for an I-130 visa petition is \$185. However, these fees go up fairly regularly, so double check this on the USCIS website at [www.uscis.gov](http://www.uscis.gov), or by calling USCIS at 800-375-5283.

## c. Where to Send Form I-130 Visa Petition

After your spouse has—with your help—prepared and assembled all the forms and other items from the checklist below, make photocopies for your records. Your spouse should send the whole visa petition to the USCIS Service Center for the region where he or she lives. If your spouse is mailing this in the United States, certified mail with a return receipt is the safest way to send it. The return receipt will prove that USCIS received the petition and help convince them to track it down if it's misplaced. The Service Center's address is in Appendix C. You can double-check this information on the USCIS website at [www.uscis.gov/graphics/fieldoffices/statemap.htm](http://www.uscis.gov/graphics/fieldoffices/statemap.htm).

If your spouse lives overseas, he or she should ask the local U.S. consulate where to send the I-130 visa petition.

## d. What Happens After Sending in the Form I-130 Visa Petition

A few weeks after your spouse sends in your visa petition, he or she should get a receipt notice from the USCIS Service Center. The receipt notice will say how long the application is likely to remain in processing—usually at least three months and lately more likely a year or more.

Until the completion time predicted by the receipt notice, USCIS will ignore any letters from you or your spouse asking what is going on. These Service Centers seem like walled fortresses. You can't visit them, and it is almost impossible to talk to a live person there. (See Chapter 15 for what to do if you don't get a timely answer from the USCIS Service Center.) If USCIS needs additional documentation to complete your application, they will send your spouse a letter asking for it.

Eventually your spouse will either receive an approval or a denial of the visa petition.

### i. If the Visa Petition Is Denied

If the visa petition is denied, USCIS will tell you the reason for the denial. The fastest thing to do is to fix the problem and try again. For example, if the denial came because your petitioning spouse did not appear to be actually divorced from his or her previous spouse, your spouse would need to see a lawyer and obtain new and better documentation showing that there was a final divorce. Then he or she can file a new visa petition.

### ii. If the Visa Petition Is Approved

When your visa petition is approved, your spouse will receive a notice from the USCIS Service Center. An example of a visa petition approval notice is shown below. As you can see, it's nothing fancy. But it is an important document. Make a few photocopies of it and store these and the original in safe places.

At the same time that the USCIS Service Center notifies your spouse of the approval of your visa petition, it will forward your case to the National Visa Center (NVC) in New Hampshire. This office will take over and guide you through Step Two.

## Visa Petition Approval Notice

U.S. Department of Justice  
Immigration and Naturalization Service

### Notice of Action

<b>THE UNITED STATES OF AMERICA</b>	
RECEIPT NUMBER WAC-95-132-55555	CASE TYPE I130 / IMMIGRANT PETITION FOR RELATIVE, FIANC(E), OR ORPHAN
RECEIPT DATE April 13, 1995	PRIORITY DATE April 11, 1995
NOTICE DATE June 26, 1995	PAGE 1 of 1
PETITIONER A99 999 999 AGUILAR, JOSE	
BENEFICIARY AGUILAR, CLARITA	
AMY F. LEE, ATTORNEY 555 PARKER ST. BERKELEY CA 94710	<b>Notice Type:</b> Approval Notice <b>Section:</b> Husband or wife of permanent resident, 203(a)(2)(A) INA

The above petition has been approved. We have sent the original visa petition to the **Department of State National Visa Center (NVC), 32 Rochester Avenue, Portsmouth, NH 03801-2909**. NVC processes all approved immigrant visa petitions that need consular action. It also determines which consular post is the appropriate consulate to complete visa processing. NVC will then forward the approved petition to that consulate.

This completes all INS action on this petition. If you have any questions about visa issuance, please contact the NVC directly. The telephone number to NVC is (603) 334-0700.

The NVC will contact the person for whom you are petitioning concerning further immigrant visa processing steps.

THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

IMMIGRATION & NATURALIZATION SERVICE  
WESTERN SERVICE CENTER  
P. O. BOX 30111  
LAGUNA NIGUEL CA 92607-0111  
Customer Service Telephone: (714) 643-4880



**RECEIVED JUL 06 1995**



### e. The Affidavit of Support, Form I-864

After the NVC receives your file from the USCIS Service Center, it will send an Affidavit of Support (Form I-864) to your petitioning spouse. The NVC will instruct your spouse to fill in the form and to then send it back to the NVC or directly to you, the immigrant (for you to later hand carry to your consular interview as part of Step Three). Where your petitioning spouse has to send the form depends on which country you are immigrating from, and no list of these countries is readily accessible. If your petitioning spouse was instructed to send the I-864 back to the NVC, the process will be briefly held up until the NVC reviews and approves it for completeness.

Most couples, however, won't have to submit Form I-864 until the third step, the consular interview. Therefore, we give you instructions for completing it in Step Three, below.

### f. Using the Checklist for Step One, Visa Petition

When you put it all together, the visa petition that your spouse files for Step One will include three forms and some supporting documents, photos, and a fee, as explained above and detailed on the following checklist. As you fill out and prepare your paperwork, mark off the items that you've found or finished on your checklist. This will be the best way to make sure you haven't forgotten anything.



The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

## 4. Step Two: Immigrant Mails Forms to the NVC

Next, you, the immigrant, will receive what's called an Agent of Choice and Address form (DS-3032) from the NVC. This is a very simple form, indicating

### Checklist for Marriage-Based Immigrant Visa Petition

This checklist shows every form, document and other item needed for the initial visa petition that your spouse, with your help, will assemble and submit to USCIS.

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Form I-130 (see line-by-line instructions in Subsection a, above)</li> <li><input type="checkbox"/> Documents to accompany Form I-130:             <ul style="list-style-type: none"> <li><input type="checkbox"/> Your marriage certificate (see Chapter 4, Section C, on obtaining such documents)</li> <li><input type="checkbox"/> Proof of the U.S. citizen status of your petitioning spouse (see Subsection b, above)</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Proof of termination of all previous marriages, such as a copy of a death, divorce, or annulment certificate (see Chapter 4, Section C, on how to obtain vital documents)</li> <li><input type="checkbox"/> One color photo of you (see Subsection b, above)</li> <li><input type="checkbox"/> One color photo of your spouse</li> <li><input type="checkbox"/> Fees: currently \$185 but double check this at <a href="http://www.uscis.gov">www.uscis.gov</a> (see Subsection b, above)</li> <li><input type="checkbox"/> Form G-325A, Biographic Information, filled out by you (see Subsection a, above, for line-by-line instructions)</li> <li><input type="checkbox"/> Form G-325A, Biographic Information, filled out by your spouse.</li> </ul> |
|---|--|

whether you have an attorney or not, so we don't include further instructions for filling it out.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. For illustration purposes, the first page of this form is shown below.

At the same time, NVC will send a bill for processing the Affidavit of Support (Form I-864—the fee is currently \$65) to your petitioner. Then, once the NVC receives your Form DS-3032, it will mail you a bill for the immigrant visa processing fee (currently \$335). Once the visa fee is paid, the NVC will send you the instruction packet of forms and information and transfer your file to an overseas U.S. consulate. You'll need to fill out these forms and return them to the NVC. We'll go through these forms step by step.

Meanwhile, the NVC will send your application file to the appropriate consulate. If you've been

legally living in a country that is not your country of citizenship, you'll probably be told to work with the consulate in the country where you now live. If your country of residence doesn't have diplomatic relations with the United States, the NVC will name another consulate to handle your case.

### a. Line-by-Line Instructions for Step Two, Instruction Package Forms

You will receive all the forms you need directly from the NVC and the relevant consulate after your I-130 visa petition has been approved and your fees paid. Certain forms vary among consulates (for example, some include translations into the language of that country). Accordingly, although this book provides the typical versions of these forms, and guidance on how to fill them out, you'll probably want to use and submit the forms that you receive from the NVC or your consulate.

## Form DS-3032, Choice of Address and Agent

Make sure the address is complete and correct. We will use this address for future mailings.		OMB No. 1405-0126 EXPIRATION DATE: 12/31/2006 ESTIMATED BURDEN: 30 minutes*
<div style="border: 1px dashed black; padding: 5px; margin-bottom: 10px;">           Place Case Barcode Strip Here Before Mailing to the National Visa Center         </div> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> <p>U.S. Department of State</p> <p><b>CHOICE OF ADDRESS AND AGENT</b></p> <p>For Immigrant Visa Applicants</p> </div> </div>		
<div style="text-align: right; margin-bottom: 10px;">           Print or type your full name         </div> <p>Check one box only to the left of the statement that is your choice.</p> <p> <input type="checkbox"/> I appoint: _____            as my agent or attorney to receive mail about my application. Mail from the U. S. Department of State concerning my immigrant visa application should be sent to:         </p> <div style="text-align: center; margin-top: 20px;">           _____            Name of the person who will act as your agent or attorney for receipt of mail         </div>		

**i. Form DS-230 Part I**

This form is used to collect basic biographic information about you, such as your address and the names of your children.



Form DS-230 Part I is available on the CD-ROM at the back of this book and as a tear-out in Appendix G, but use the form that you get from the U.S. consulate if it's different. Below is a picture of the first page of this form.

**Questions 1-18:** Self-explanatory (similar to the questions on Form I-130; see Subsection 3a, above).

**Question 19:** List all your children. You'll have a chance to identify which ones are immigrating with you later.

**Question 20:** Self-explanatory.

**Question 21a:** List only those children of yours who also have an approved I-130 visa petition and will be immigrating with you at the same time.

**Question 21b:** List only those children who have an approved I-130 visa petition and will be following to join you.

**Questions 22-24:** Self-explanatory.

**Question 25:** If you've spent more than 180 days in the United States without a valid visa or other right to live in the United States after April 1, 1997 you need to see a lawyer before going any farther. (See Chapter 2, Section A, for more information on this issue.)

Don't forget to sign this form at the bottom.

**ii. Form OF-169**

This form is actually a checklist that serves to advise the NVC that you have collected all the necessary documents and are ready for your visa interview.

### Form DS-230 Part I, Application for Immigration Visa and Alien Registration

 <div style="text-align: center;">           U.S. Department of State  <b>APPLICATION FOR IMMIGRANT VISA AND ALIEN REGISTRATION</b> </div> <div style="text-align: right; font-size: small;">           OMB APPROVAL NO. 1405-0015            EXPIRES: 05/31/2004            ESTIMATED BURDEN: 1 HOUR*            (See Page 2)         </div>		
<b>PART I - BIOGRAPHIC DATA</b>		
<b>INSTRUCTIONS:</b> Complete one copy of this form for yourself and each member of your family, regardless of age, who will immigrate with you. Please print or type your answers to all questions. Mark questions that are Not Applicable with "N/A". If there is insufficient room on the form, answer on a separate sheet using the same numbers that appear on the form. Attach any additional sheets to this form.		
<b>WARNING:</b> Any false statement or concealment of a material fact may result in your permanent exclusion from the United States.		
This form (DS-230 PART I) is the first of two parts. This part, together with Form DS-230 PART II, constitutes the complete Application for Immigrant Visa and Alien Registration.		
1. Family Name		<div style="display: flex; justify-content: space-between;"> <span>First Name</span> <span>Middle Name</span> </div>
2. Other Names Used or Aliases <i>(If married woman, give maiden name)</i>		
3. Full Name in Native Alphabet <i>(If Roman letters not used)</i>		
4. Date of Birth <i>(mm-dd-yyyy)</i>	5. Age	6. Place of Birth <div style="display: flex; justify-content: space-between;"> <span>(City or town)</span> <span>(Province)</span> <span>(Country)</span> </div>
7. Nationality <i>(If dual national, give both)</i>	8. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	9. Marital Status <input type="checkbox"/> Single <i>(Never married)</i> <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input type="checkbox"/> Separated



There's not much to fill in, but much to prepare. (This form is, however, being put through a transition—the one you receive may not have any of the numbers mentioned above, and it may be formatted differently, from our sample OF-169 below, so that the list of documents is separated from the part that you sign to indicate you're ready with your forms.)



Form OF-169 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G, but use the form that you get from the U.S. consulate if it's different. Below is a picture of the first page of this form.

Form OF-169 is normally printed out double-sided. It lists most of the documents that you'll need to prepare and bring to your visa interview. **Don't make the mistake of mailing the documents in with this form.** All you have to do now is to check the boxes on the form and send it in. Then fill out the name and address section at the bottom. Your case

number is on the cover letter you received in your mailing.



**Keep the process moving.** Form OF-169 asks you not to check any boxes nor return the form until you actually have the documents in hand. Now, we don't recommend that you cavalierly start checking off boxes, but practically nobody follows this instruction exactly. Just make sure you know that you will be able to get the documents. Then get this form in the mail. You'll have at least a few months' preparation time before your interview.

The boxes on Form OF-169 that you absolutely have to check, and prepare documents to match, are **1, 2, 6, 7, 8, 9, and 10**. These items are all self-explanatory or are fully explained on the form itself.

**Box 3:** You need to obtain a police certificate (hopefully showing your clean record) only if such certificates are available in your country. The list of countries that make these available is in Appendix E. You'll also get an up-to-date list from the NVC

## Form OF-169, Instructions for Immigrant Visa Applicants



### INSTRUCTIONS FOR IMMIGRANT VISA APPLICANTS

This office has received evidence entitling you to immigrant visa status. While no assurance can be given regarding the date of your visa interview appointment, you should now prepare for that appointment by taking the following three steps:

**FIRST:** Complete and send immediately to the consular office processing your case the enclosed Form OF-230 PART I, APPLICATION FOR IMMIGRANT VISA AND ALIEN REGISTRATION (Biographic Data). The consular office cannot process your case until this form is received.

**SECOND:** Obtain the following documents on this checklist which pertain to you. As you obtain each document, check the box before each item. Do NOT send them to the consular office.

☐ **1. PASSPORTS:** A Passport must be valid for travel to the United States and must have at least six months validity beyond the issuance date of the visa. Children may be included on a parent's passport, but if over the age of 16, they must have their photographs attached to the passport.

☐ **2. BIRTH CERTIFICATES:** One certified copy of the birth certificate of each person named in the application is required. Birth records must be presented for all unmarried children under age 21, even if they do not wish to immigrate at this time. (If children are deceased, so state giving year of death.) The certificate must state the date and place of birth and the names of both parents. The certificate must also indicate that it is an extract from official records. If you, or any children were adopted, you must submit a certified copy of the final adoption decree. Photostatic copies are acceptable provided the original is offered for inspection by the consular officer.

with your forms. If you don't have a clean record, you should consult a lawyer.

**Box 4:** This needs to be dealt with only if you have a criminal record.

**Box 5:** This needs to be dealt with only if you've served in the military.

## b. Where to Send Step Two Forms

After you have finished preparing your forms, make a complete copy for yourself. Then mail the original forms to the National Visa Center. If your spouse mails this from the United States, he or she should send it by certified mail, with a return receipt requested. If you are mailing it, use whatever method is considered safest in your home country and ask for a return receipt if this service is available.

## c. What Happens After You Send Forms to the NVC

After the NVC receives your packet, it will respond by transferring your file to a U.S. consulate. The consulate will send you a date and location for a fingerprint appointment. After you're fingerprinted, you'll have to wait until your prints have cleared with the U.S. FBI. After that, assuming the results show you do not have a criminal record, you'll move on to the third step in this process. (See Chapter 2 regarding which types of crimes would make you inadmissible, or consult a lawyer if you believe you have a record.)

## d. Using the Checklist for Step Two, Packet of Forms for Mailing to the NVC

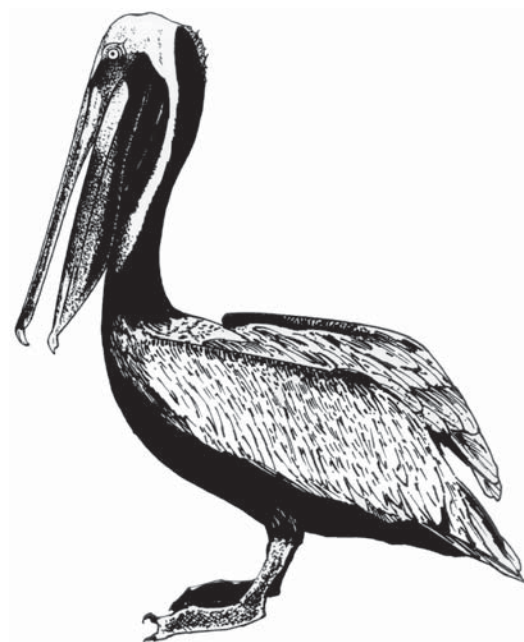
This checklist is a short one, since you'll only have to fill out two forms and have them ready for mailing.



The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

### Checklist for Mailing to the NVC

- ☐ Form DS-230 Part I (see line-by-line instructions in Subsection a, above)
- ☐ Form OF-169 (see line-by-line instructions in Subsection a, above) or DS-2001.



### Louisiana

State Bird: Brown Pelican

Louisiana's nickname is the Pelican State

## 5. Step Three: Appointment Package

After the consulate has reviewed your forms, run a security check on you, and found a space on its calendar, it will send you an appointment package. This will include an interview appointment date, instructions on how to get your medical exam, a final form to fill out and bring to your interview, and instructions for other documents to bring to the interview. The following subsections explain concepts and requests you'll encounter while making your way through the package. Subsection a gives you line-by-line instructions on how to fill out the forms, and Subsection b gives instructions on choosing and preparing certain documents. All of the required items are summarized on the Checklist in Subsection f.

### a. Line-by-Line Instructions for Step Three, Appointment Package

To use this section, you'll need to have copies of the appropriate forms in front of you, including

Form DS-230 Part II, Form I-864, and if appropriate, Form I-864A.

#### i. Form DS-230 Part II


Form DS-230 Part II is fairly short—it's intended to give the consulate final confirmation of who you are and where you're going. Most of this form is self-explanatory. Because consulates use different versions of this form, we can't give you the number that a question will appear under.



Form DS-230 Part II is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. However, it's best to use the form you receive from the U.S. consulate because it may be slightly different. Below is a picture of the first page of this form.

If the form asks, the “**person you intend to join**” and the “**sponsoring person**” are both your spouse, and you'll need to enter his or her name, perhaps twice.

## Form DS-230 Part II, Application for Immigrant Visa and Alien Registration

 <div style="text-align: center;"> U.S. Department of State  <b>APPLICATION FOR IMMIGRANT VISA AND  ALIEN REGISTRATION</b> </div> <div style="text-align: right; font-size: small;"> OMB APPROVAL NO. 1405-0015  EXPIRES: 05/31/2004  ESTIMATED BURDEN: 1 HOUR* </div>		
<b>PART II - SWORN STATEMENT</b>		
<p><b>INSTRUCTIONS:</b> Complete one copy of this form for yourself and each member of your family, regardless of age, who will immigrate with you. Please print or type your answers to all questions. Mark questions that are Not Applicable with "N/A". If there is insufficient room on the form, answer on a separate sheet using the same numbers that appear on the form. Attach any additional sheets to this form. The fee should be paid in United States dollars or local currency equivalent, or by bank draft.</p> <p><b>WARNING:</b> Any false statement or concealment of a material fact may result in your permanent exclusion from the United States. Even if you are issued an immigrant visa and are subsequently admitted to the United States, providing false information on this form could be grounds for your prosecution and/or deportation.</p> <p>This form (DS-230 PART II), together with Form DS-230 PART I, constitutes the complete Application for Immigrant Visa and Alien Registration.</p>		
26. Family Name	First Name	Middle Name
27. Other Names Used or Aliases (If married woman, give maiden name)		
28. Full Name in Native Alphabet (If Roman letters not used)		
29. Name and Address of Petitioner		

A few versions of the form still ask about your **“purpose in going to the United States”**; the answer is to “immigrate.” And, if the form asks, your **“length of intended stay”** is “permanent.”

The **“yes or no”** questions (with boxes to check) refer to the grounds of inadmissibility described in Chapter 2. If you check “yes” on any of them, consult a lawyer immediately, before sending in the form.

**Signature line:** Don’t sign until the interview!

## ii. Form I-864

Form I-864, the Affidavit of Support, is the primary form that your spouse and any joint sponsor will use to prove that he, she, or they are willing and able to support you. (You might need a joint sponsor to assist in supporting you if your spouse’s income and assets aren’t high enough to reach the government’s guidelines, as covered in Chapter 3.) The form is normally printed out two-sided, head to foot.

Before you fill out this form, look again at Chapter 3, Meeting Income Requirements, which explains how USCIS will evaluate your finances and those of

your spouse. This chapter gives you strategies on meeting the minimum requirements if your own resources are too low. The following subsection, “Financial Documents to Have on Hand,” gives you information on how to create, assemble, or prepare the supporting documentation (such as tax returns and letters from employers) that you may need to attach to the forms discussed below.



### U.S. citizens with long work histories and long marriages may be able to avoid filling out an

**Affidavit of Support (Form I-864).** The reason is that their obligations to act as sponsors end after the immigrant has worked 40 quarters (about ten years)—but, in an interesting twist, the immigrants can be credited with work done by their U.S. citizen spouses while they were married. So, if your U.S. citizen spouse has worked 40 quarters in the U.S. during your marriage, he or she need not fill out Form I-864. Though it’s the rare married couple who will have gone this many years without applying for a green card, the exception is highly useful for those to whom it applies.

## Form I-864, Affidavit of Support

U.S. Department of Justice Immigration and Naturalization Service			OMB No. 1115-0214	
			<b>Affidavit of Support Under Section 213A of the Act</b>	
<b>START HERE - Please Type or Print</b>				
<b>Part 1. Information on Sponsor (You)</b>				
Last Name		First Name		Middle Name
Mailing Address ( <i>Street Number and Name</i> )			Apt/Suite Number	
City			State or Province	
Country		ZIP/Postal Code	Telephone Number	
Place of Residence if different from above ( <i>Street Number and Name</i> )		Apt/Suite Number		<b>FOR AGENCY USE ONLY</b>  This Affidavit <input type="checkbox"/> Meets <input type="checkbox"/> Does not meet Requirements of Section 213A  Receipt
City		State or Province		
Country	ZIP/Postal Code	Telephone Number		
Date of Birth ( <i>Month, Day, Year</i> )	Place of Birth ( <i>City, State, Country</i> )	Are you a U.S. Citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Social Security Number		A-Number ( <i>If any</i> )		





Form I-864 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Above is a picture of the first page of this form.

As explained in Subsection 3e, above, some applicants will be asked to submit this form before sending in their packets. If you are one of these applicants, make sure your spouse sends you a copy to review and have with you at your visa interview.

Because this form may be filled out either by your spouse or by a joint sponsor, the instructions below usually refer to the “sponsor,” which refers to either of them.

### Part 1:

Self-explanatory, as long as you remember that it’s your petitioner/sponsor filling this out. Under **Place of Residence**, note that the address must be in the United States for your U.S. citizen spouse to be eligible as a financial sponsor. If your spouse is living overseas and doesn’t want to return to the United States until you, the immigrant, can enter with him or her, he or she must still prepare and sign an Affidavit of Support. However, he or she will have no choice but to find a joint sponsor who lives in the United States and will submit an additional Affidavit.

### Part 2:

Spouses check Box a. Long-lost cousins, fairy godmothers, and other nice friends who agreed to fill out this form as joint sponsors check Box d.

### Part 3:

Self-explanatory. This list of children should only include those who will be immigrating along with the immigrant spouse. If you mention any other children here, it will mean that the sponsor is making a contractual agreement to support them as well as the children you bring with you. It is unnecessary to name children who were born in the United States, because the sponsor has no obligation to contract to support them (even though they may be counted elsewhere within this form to test the sponsor’s overall financial capacity).

### Part 4:

**Section A, Sponsor’s Employment:** The sponsor needs to fill in information about his/her employment. Self-employment is fine. If, however, the self-employed sponsor has underreported income in the past, he or she may need to file an amended tax return and pay a penalty in order to meet the income guidelines for sponsorship.

### Section B, Sponsor’s Household Size:

**Question 1:** Count up everyone in the sponsor’s household except the immigrant spouse and any immigrating children. Insert the number on the line to the right.

**Question 2:** Count up and insert the number of people who weren’t mentioned in Question 1, namely the immigrant spouse and any immigrating children.

**Question 3:** Count up and insert the number of other immigrants for whom the sponsor has signed a Form I-864 (and list them in the box below).

**Question 4:** Count up and insert the number of persons listed on the sponsor’s tax return who were not already counted above.

**Question 5:** Add all the people up.

**Part 4**, continued on page 3:

### Section C, Sponsor’s Annual Household Income:

Check the boxes to show what type of tax return the sponsor filed. Since you are living overseas and presumably did not have to file taxes to the U.S. government, your U.S. spouse will most likely check the first box.

At the line saying **Sponsor’s individual income**, the sponsor is supposed to enter the income shown on his or her most recent tax return. But what if the sponsor’s income has risen since filing those taxes? In that case, the sponsor should enter the more recent income figure, but put an asterisk (an “\*”) next to it. Then find some white space somewhere on the page and write “this figure reflects present earnings, not earnings shown on tax return; see supporting documentation.” The documentation already being provided, such as the sponsor’s employer letter, should be enough to show current income.

The line requesting **Income of other qualifying persons** is where the sponsor lists the household joint sponsors discussed in Chapter 3—members of the household who are willing to contribute

their income to help meet the *Poverty Guidelines*' minimum requirements. (If their income is not needed, there is no need to list these people here.)

When you've totaled all the lines, insert the figure on the bottom line for **Total Household Income**.

#### **Section D, Determination of Eligibility Based on Income:**

**Question 1:** Unless the sponsor is in the military, he or she should put an X in the first box—sponsors have no choice but to be subject to the 125% of poverty line requirement.

**Question 2:** Self-explanatory.

**Question 3:** Look at the *Poverty Guidelines* chart at the back of Form I-864 and enter the year and the required amount for the sponsor's household size. Then double check to make sure this required income amount is less than the amount of income entered under **Total Household Income**. If the sponsor's income isn't at or above the requirements, the sponsor will need to make up the difference by either:

- showing assets (see the instructions coming up next)
- showing that you, the beneficiary will contribute assets (see the instructions below, under Section F of this form), or
- finding a joint sponsor (discussed in Chapter 3, Section A) to submit an additional Affidavit of Support.

**Section E, Sponsor's Assets and Liabilities:** Only fill out this section if the sponsor's income alone wasn't enough to meet the *Poverty Guidelines*' requirements. If the sponsor needs to add assets, and they include items such as a house, car, or boat, remember to subtract debts, mortgages, and liens before writing down their value. And remember that the value of these assets will later be divided by five before being used to meet the *Poverty Guidelines*' minimum. If some of the assets used to meet the minimum belong to the immigrant, attach a separate page describing these in the same format as this Section F (and of course attach documents to prove their ownership, location, and value).

If the combination of your spouse's household income and one fifth of your spouse's and your

combined assets still don't meet the *Poverty Guidelines*' minimum, you'll need to hand in this Affidavit anyway. The petitioning spouse must sign an affidavit promising to support the immigrant no matter how low his or her income. But you'll definitely want to look for a joint sponsor.

#### **Part 7:**

**Note: The sponsor must not sign this until he or she is in front of a notary public.** A notary public is someone who is legally authorized by a state government to check a person's identification and make sure that the person signing the document is the one who is named as the person who should sign. To convince a notary of his or her identity, the sponsor should bring a driver's license or other form of photo identification. The notary will then ask your sponsor to sign the form, and will place a stamp on it. The notary shouldn't charge more than around \$15 for this service. Notaries can easily be found by looking in the Yellow Pages of a local phone book.



#### **Need to prepare Affidavits for several family members at once?**

If the sponsor is bringing in more than one person (you and your children) in the same process, he or she can simply copy Form I-864 (with supporting documents) the appropriate number of times after signing it. USCIS has gone back and forth on this requirement several times, so if you see contradictory advice, make sure the source is more recent than this publication.

#### **iii. Form I-864A**

This form is normally printed out double-sided, head to foot. Not every immigrant needs to submit this form. It is only required if, on the main Form I-864, the sponsor had to use the income of members of the sponsor's household to meet the *Poverty Guidelines*. In that case, these household member(s) will need to fill out portions of Form I-864A. Then both the sponsor and the household member(s) will take the form to a notary public and sign it. The sponsor must attach the Form I-864A to the main Form I-864.





Form I-864A is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

**Page 1 heading:** Filled out by the household member. Self-explanatory.

**Part 1:** Self-explanatory.

**Part 2:** This part is filled out by the sponsor. Self-explanatory.

**Part 3:** Filled out by the household member. Self-explanatory.

**Part 4:** (Not applicable to immigrants living overseas.)

**Parts 5 and 6:** This is where the sponsor and the household member will each sign their names, in front of a notary public.

## b. Financial Documents to Have on Hand

When it comes to proving that your spouse or additional sponsors are able and willing to support you, the consulate will require detailed, up-to-date

information from trustworthy sources. The types of documents they look for are described below.

### i. Documents to Accompany Form I-864

Form I-864 asks for several supporting documents. If your spouse is relying on a joint sponsor (outside the household), that person should also be told to assemble a set of these documents:

- **A copy of your spouse/sponsor's federal income tax returns for the last three years, with W-2s.** Don't include state tax forms. The immigration authorities prefer to see federal tax returns in the form of Internal Revenue Service (IRS) transcripts (an IRS-generated summary of the return that was filed). Transcripts can be requested using IRS Form 4506 (available from [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM). However, it usually takes several weeks to receive the transcript. Don't let this hold up the immigration process—if the transcript hasn't come by the time you need to submit the Form I-864, simply use your sponsor's personal photocopies of his or her tax returns.

## Form I-864A, Contract Between Sponsor and Household Member

U.S. Department of Justice  
Immigration and Naturalization Service

OMB No. 1115-0214

### Contract Between Sponsor and Household Member

Sponsor's Name (Last, First, Middle)

Social Security Number

A-Number (If any)

#### General Filing Instruction

Form I-864A, Contract Between Sponsor and Household Member, is an attachment to Form I-864, Affidavit of Support Under Section 213A of the Immigration and Nationality Act (the Act). The sponsor enters the information above, completes Part 2 of this form, and signs in Part 5. The household member completes Parts 1 and 3 of this form and signs in Part 6. A household member who is also the sponsored immigrant completes Parts 1 and 4 (instead of Part 3) of this form and signs in Part 6. The Privacy Act Notice and information on penalties for misrepresentation or fraud are included on the instructions to Form I-864.

The signatures on the I-864A must be notarized by a notary public or signed before an immigration or consular officer. A separate form must be used for each household member whose income and/or assets are being used to qualify. This blank form may be photocopied for that purpose. A sponsored immigrant who qualifies as a household member is only required to complete this form if he or she has one or more family members immigrating with him or her and is making his or her *income* available for their support. Sponsored immigrants who are using their *assets* to qualify are not required to complete this form. This completed form is submitted with Form I-864 by the sponsored immigrant with an application for an immigrant visa or adjustment of status.

#### Purpose

This contract is intended to benefit the sponsored immigrant(s) and any agency of the Federal Government, any agency of a State or local government, or any private entity to which the sponsor has an obligation under the affidavit of support to reimburse for benefits granted to the sponsored immigrant(s). The sponsor will have the right to

- **Proof of your sponsor's current employment.** Start with a letter from the sponsor's employer describing the dates of employment, nature of the job, wages/salary, time worked per week, and prospects for advancement. (See the sample employer letter below.) Also include copies of pay stubs covering the last six months, or the most recent stub if it shows cumulative pay. If the sponsor is self-employed, a tax return is acceptable, but it's a good idea to add a business license, copies of current receipts, or other supporting documents.
- **A list of assets (the sponsor's and/or the immigrant's), if they must be used to meet the *Poverty Guidelines*' minimum.** There is no form to use for creating this list. Simply prepare (on a typewriter or word processor) a list or table with the following information:
  - a brief description of the item
  - current value
  - remaining debt (if any)
  - a brief description of the document you've attached to prove ownership.
- **Proof of ownership of assets (the sponsor's and/or the immigrant's), if any were listed.** Form I-864 itself does a good job of detailing which documents will be accepted as proof of ownership of assets, as explained on pages 2 and 3, Evidence of Assets. The value must be the likely sale price, not how much the sponsor paid for the property. For real estate, you can use a tax assessment to show the value. If the assessment seems too low, or for property other than real estate, the sponsor can hire a professional appraiser to prepare an estimate and report. For cars, the value listed in the *Kelley Blue Book* is acceptable. Look for the *Kelley Blue Book* at a library or bookstore, or online at [www.kbb.com](http://www.kbb.com). The sponsor must also document the amount of any debt remaining on the property. If no debt remains, submit proof of final payment.



**You may need to update your information later.**

By the time you get to your visa interview, circumstances may have changed for your sponsor, joint sponsor, or household joint sponsor. For example, if the sponsor or joint sponsor have new or different

employment, bring a job letter and copies of recent pay stubs; and if a new tax year has begun, bring copies of the sponsor(s)' most recent tax returns.

### Sample Letter Showing Sponsor's Employment

Hitting the Road Trucking  
222 Plaza Place  
Outthereville, MA 90000

May 22, 200x

To Whom It May Concern:

Ron Goodley has been an employee of Hitting the Road Trucking since September 4, 200x, a total of over five years. He has a full-time position as a driver. His salary is \$45,000 per year. This position is permanent, and Ron's prospects for performance-based advancement and salary increases are excellent.

Very truly yours,

*Bob Bossman*

Bob Bossman  
Personnel Manager  
Hitting the Road Trucking

### ii. Documents to Accompany Form I-864A

You will submit Form I-864A only if your spouse needs to rely on the financial contributions of members of his or her household. Form I-864A also requires several supporting documents. These include not only proof of the joint sponsors' financial capacity, but proof that they live with and are related to the main sponsor.

- **Proof that the household joint sponsors have lived with the primary sponsor for the last six months.** Such proof can include a copy of the rental agreement showing the household member's name, and copies of items that show the same address as the sponsor (such as a

driver's license, copies of school records, copies of utility bills, or personal correspondence).

- **Proof that the household joint sponsors are related to the primary sponsor (if they're not already listed as relations on the sponsor's tax return).** The best way to prove this family relationship is through birth certificates. If, for example, the sponsor and household joint sponsor are parent and child, the child's birth certificate will do. If they are brother and sister, providing both birth certificates will work (as long as the certificates show that they share the same parent or parents). If the birth certificates don't make the family relationships clear, look for other official documents such as court or school records to confirm the parent-child links.
- **Copies of the household joint sponsors' tax returns for the last three years.** As with the primary sponsor, the government prefers to see IRS-generated tax transcripts.
- **Proof of the household joint sponsors' employment.** This can include a letter from their employer confirming employment, as in the sample above, and recent pay stubs.
- **A list of the household joint sponsors' assets if they must be used to meet the *Poverty Guidelines*' minimum.** There is no form for creating this list. Using a typewriter or word processor, the household joint sponsors should prepare a list or table with the following information:
  - brief description of item
  - current value
  - remaining debt (if any)
  - brief description of the document attached to prove ownership.
- **Proof of ownership of household joint sponsors' assets, if any were listed.**
- **A list of the benefits programs and dates of receipt if the household joint sponsors or their dependents have used financial need-based public benefits in the last three years.**

### c. Documenting That Your Marriage Is Bona Fide

When you attend your interview, you must present evidence that your marriage is a real one, not a sham. Gather and photocopy as many of the following items as possible:

- rental agreements, leases, or mortgages showing that you have lived together and/or have leased or bought property in both spouses' names
- hotel and airplane receipts showing trips that you have taken together or to visit one another
- phone bills showing your conversations
- copies of letters and emails between you
- your mutual child's birth certificate or a doctor's report saying that you are pregnant
- joint bank statements
- joint credit card statements
- evidence that one spouse has made the other a beneficiary on his/her life or health insurance or retirement account
- auto registrations showing joint ownership and/or addresses
- joint club memberships



**Tennessee**  
State Cultivated Flower: Iris

- receipts for gifts that you purchased for one another (these should be items that are normally considered gifts, such as flowers, candy, jewelry, and art)
- letters from friends and family to each or both of you, mailed to an address where you were living together
- photos of you and your spouse taken before and during your marriage, including at your wedding (the government knows wedding pictures can be faked, but some officers enjoy seeing them anyway). The photos should, if possible, include parents and other relatives from both families. Write the date the picture was taken and a brief description of what the photo shows on the back (or underneath, if you're photocopying them). Don't bother with the wedding or other videos; there won't be time or a space to view them.

#### d. The Medical Exam

To prove that you are not inadmissible for medical reasons, you will have to present the results of a medical exam done by a doctor approved by the U.S. consulate. Your appointment notice will give you complete instructions on where and when to visit the appropriate clinic or doctor. There will be a fee of about \$100.

When you go for your medical exam, make sure to bring the following:

- your visa appointment letter
- the doctor's fee
- your vaccination records, and
- photo identification—the doctor must make sure you don't send a healthier person in your place. You may also be requested to bring a passport-style photo.

The doctor will examine you, ask you questions about your medical and psychiatric history and drug use, and test you (including blood tests and chest X-rays). Pregnant women can refuse the chest X-ray until after the baby is born if they have no symptoms of tuberculosis. When the laboratory results are in,

the doctor will fill out the appropriate form and return it to you in a sealed envelope. DO NOT open the envelope—this will invalidate the results. The doctor should supply you with a separate copy of your results, or tell you whether any illnesses showed up.



If you want to plow through the government's technical guidance on the medical exam, it's published by the Centers for Disease Control (CDC). You can call 800-311-3435 and ask for a copy of the *Technical Instructions for Medical Examination of Aliens*, or they can be found at [www.cdc.gov/ncidod/dq/technica.htm](http://www.cdc.gov/ncidod/dq/technica.htm) on the Internet.

#### e. Where You'll Take Step Three, Appointment Package

When your appointment forms and documents are ready, don't mail them anywhere unless instructed to—the U.S. consulates in most countries require you to hold onto them until your visa interview. If the U.S. spouse prepared any parts of your packet, however, he or she should make copies and mail or bring the originals to the overseas spouse.

If your spouse had to send the original of the Affidavit of Support (Form I-864) to the NVC, be sure your spouse gives you a copy to include with the rest of the materials that you bring to the interview. The Affidavit of Support will be a big part of the discussion. Also, it will be up to you to review and understand the affidavit.

On the appointed day, you and your petitioning spouse (if he or she can possibly make it—it's optional) will go to the consulate for an interview. See a detailed description of the interview and how to prepare for it in Chapter 13.

#### f. Using the Checklist for Immigrant Visa Appointment Package

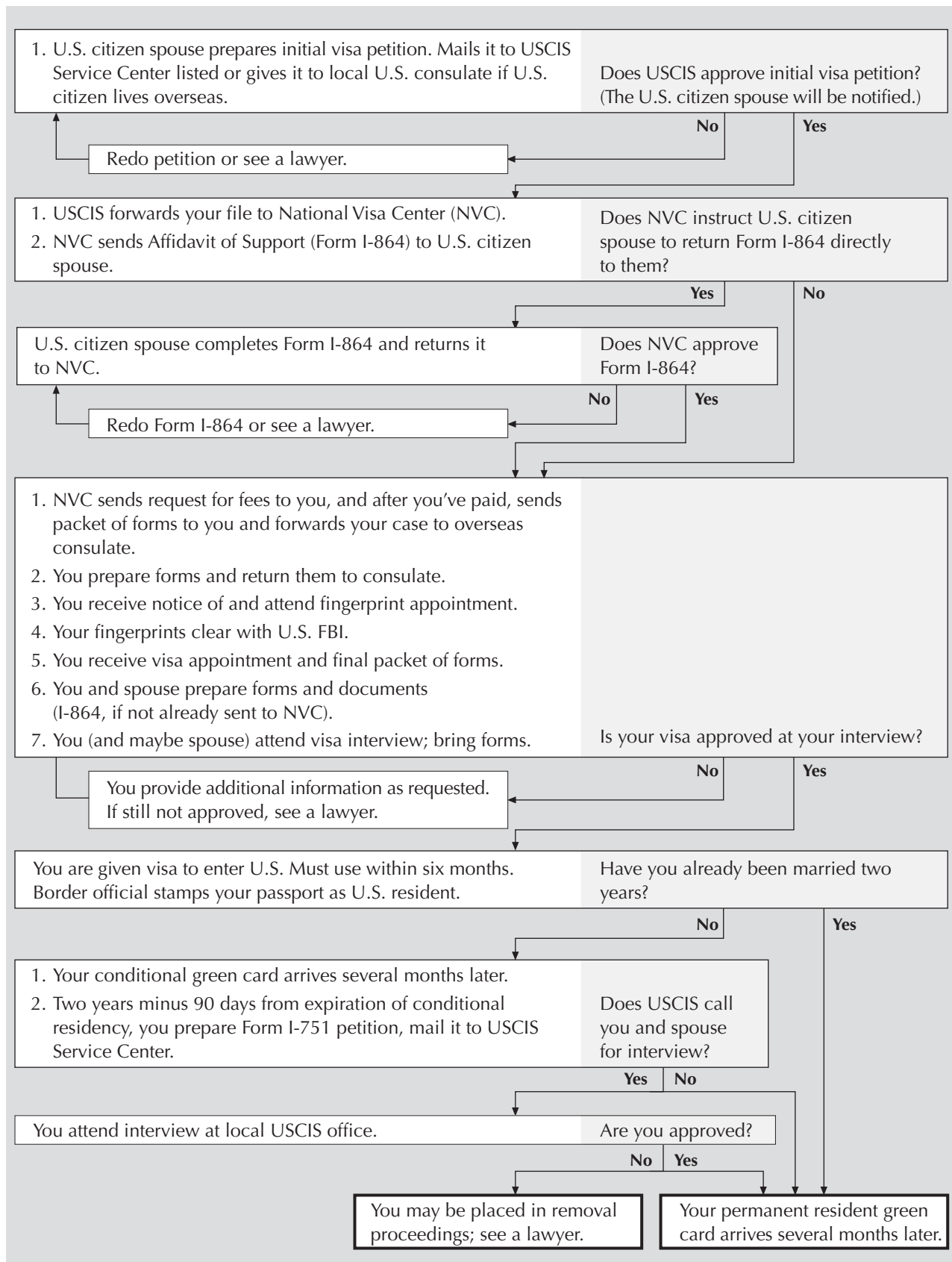
Although you must fill out only two or three forms, you and your spouse will be responsible for pulling together a great deal of supporting documents, financial and otherwise. It will be particularly impor-

## Checklist for Immigrant Visa Appointment Package

This checklist lists every form, document, and other item included in the packet that your spouse, with your help, will need to assemble in preparation for your immigrant visa interview.

- ☐ Form DS 230-II (see Subsection a, above for line-by-line instructions)
- ☐ Form I-864, Affidavit of Support (the original, or the copy if you were required to send the original to the NVC for prior approval; see Subsection a, above, for line-by-line instructions)
- ☐ Documents to accompany Form I-864 (see Subsection b, above):
  - ☐ A copy of your spouse/sponsor's federal income tax returns for the last three years, with W-2s
  - ☐ Proof of your sponsor's current employment
  - ☐ A list of assets, (the sponsor's and/or the immigrant's) if they must be used to meet the *Poverty Guidelines'* minimum
  - ☐ Proof of ownership of assets (the sponsor's and/or the immigrant's), if any were listed
  - ☐ If sponsor or sponsor's dependents have used financial need-based public benefits in the last three years, a list of the programs and dates of receipt
- ☐ Form I-864A, Contract Between Sponsor and Household Member (only needed if sponsor's income is insufficient; see line-by-line instructions to Form I-864A in Subsection a, above)
- ☐ Documents to accompany Form I-864A (see Subsection b, above):
  - ☐ Proof that the household joint sponsors have lived with the primary sponsor for the last six months
  - ☐ Proof that the household joint sponsors are related to the primary sponsor (if they're not already listed as relations on the sponsor's tax return)
  - ☐ Copies of the household joint sponsors' tax returns for the last three years
  - ☐ Proof of the household joint sponsors' employment
  - ☐ Proof of ownership of household joint sponsors' assets, if any were listed
  - ☐ If the household joint sponsors or their dependents have used financial need-based public benefits in the last three years, a list of the benefits programs and dates of receipt
- ☐ Other documents:
  - ☐ Original and one photocopy of your birth certificate (see Chapter 4, Section C, for how to obtain vital documents)
  - ☐ Original and one photocopy of your marriage certificate (see Chapter 4, Section C, for how to obtain vital documents)
  - ☐ If applicable, original and one photocopy of proof of termination of all previous marriages, such as a death, divorce, or annulment certificate
  - ☐ Financial documents to bring the Affidavit of Support up to date if it was prepared many months ago
  - ☐ Evidence that your marriage is bona fide (see Subsection c, above)
  - ☐ Original INS or USCIS notice of approved I-130 (Form I-797)
  - ☐ Your passport, valid for at least six months after the interview
  - ☐ Two color photographs of you (see instructions on Form M-378 in Appendix E)
  - ☐ Police Certificate, if available in your country (see Appendix E for a list of countries where these are unavailable)
  - ☐ Military records, if applicable
  - ☐ Court and prison records, if applicable
  - ☐ Medical exam, in an unopened envelope
  - ☐ Fees (currently \$335).

## Applying for Immigrant Visa Overseas (Spouses of U.S. Citizens)





tant to use the checklist to keep track of everything, so that you don't arrive at your interview and find that you are missing a vital document.

All the checklist items concerning Form I-864 apply whether it's your spouse filling it out or a joint sponsor who is willing to assist in supporting you; see Chapter 3 for more on joint sponsorship.



The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

## 6. Step Four: At the Border

Assuming all goes well at the visa interview, you will be given an immigrant visa. But wait—you're not a U.S. resident yet. You'll have six months to use the visa to enter the United States.



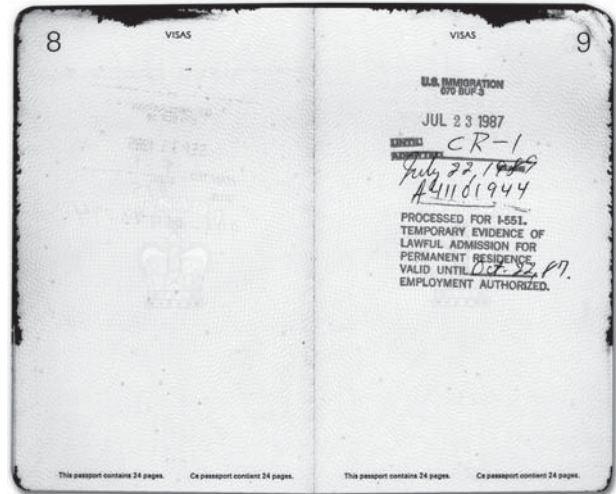
**If you're about to reach your two-year wedding anniversary, don't rush to enter the United**

**States.** An immigrating spouse whose marriage is less than two years old when he or she becomes a U.S. resident receives conditional, not permanent residency. USCIS will reexamine the marriage after another two years. So if your marriage is nearly two years old when you get your visa to enter the United States, make the most of that six-month entry window and wait to enter until your two-year wedding anniversary has passed. That way, you'll enter as a permanent resident. Point out your anniversary date to the border official, to be sure that he or she stamps your passport for permanent, not conditional, residence.

At the border, airport, or other port of entry, a U.S. border officer will open the sealed envelope containing your visa documents and do a last check to make sure you haven't used fraud. The border officer has expedited removal powers, which means he or she can turn you right around and send you home if he or she sees anything wrong in your packet or with your answers to his or her questions. When the officer is satisfied that everything is in order, he or she will stamp your passport to show that you're now a U.S. resident (see reproduction of this

stamp below—the CR-1 means that this person entered as a conditional resident).

If your marriage is less than two years old on that day, the border officer will make you a conditional resident; if your marriage is older than two years, you'll be made a permanent resident. Your actual green card will arrive several months later. If you receive conditional residence, you'll want to read Chapter 16, Section G. In about 21 months, you'll have to file an application with USCIS asking to convert this into permanent residency.



**Sample Conditional Residence Stamp**

## C. The K-3 Visa Application Process

If you're reading this section, it means that you have decided not to go through the whole immigrant visa application process while you're overseas, but will instead use the newer, faster way of entering the United States—a K-3 visa for entry, to be followed by a green card application in the United States. This section will explain how to get the K-3 visa, and refer you to a later chapter for the green card (Adjustment of Status) application instructions. Remember, the K-3 visa was created using some of the procedures formerly available only to unmarried fiancés, so don't be surprised to see the word "fiancé" appearing on some of the forms that you have to fill out.



**A few consulates offer an even faster way of entering the United States—as an immigrant, not merely with a K-3 visa.** See Section B2, above, for an explanation of Direct Consular Filing (DCF). However, DCF is usually only available to couples in which the U.S. spouse already lives overseas with the immigrant.

## 1. The Five Steps to a K-3 Visa

Obtaining a K-3 nonimmigrant visa involves five major steps:

1. First, your U.S. citizen spouse submits a visa petition (Form I-130) to a USCIS Service Center in the United States.
2. Second, after the U.S. citizen receives an I-797 receipt notice for the I-130, he or she submits a separate, “fiancé” visa petition (Form I-129F) to a special USCIS office in the United States.
3. Third, after the USCIS has approved Form I-129F, it sends word to the National Visa Center (NVC), which conducts some preprocessing procedures, and then transfers your case to the U.S. consulate that will be handling your case. You (the immigrant) will receive an “Instruction Package,” containing some forms to fill out and return to your local U.S. consulate.
4. Fourth, after the consulate has received your forms and scheduled you for an interview appointment, (by sending you an “Appointment Package”), you fill out some more forms and present them at your interview, at which (or soon after) you’ll be approved for your K-3 visa.
5. Fifth, you present your K-3 visa at a U.S. border, where it is examined. Assuming everything is in order, you will be admitted to the United States in K-3 status. After your I-130 visa petition is approved, you’ll be able to apply for Adjustment of Status in the United States.

In rare instances, USCIS will also ask your spouse to attend a “fraud interview” if USCIS or the consulate has doubts about whether your marriage is the real thing. This could happen as part of Step One or after Step Four.

This entire process takes about six or seven months—three months for the fiancé visa petition to be approved, another six weeks or so for the consulate to send you your Instruction Package, and, assuming you send your forms to the consulate right away, another six weeks or so for you to get your appointment. Note, however, that getting your K-3 visa does not depend on USCIS approving the Step One immigrant visa petition (Form I-130). In fact, if the I-130 petition is approved before your interview, you’re no longer eligible for a K-3 Visa, and will have to go through the entire immigrant visa application process. (The concept behind the K-3 visa is to compensate for the delays experienced by married couples as they wait for approval of their Form I-130.) But it’s highly unlikely that the I-130 petition will be approved until well after you’ve arrived in the United States. You may even wait so long as to become frustrated, given that you’ll need the USCIS’s approval of Form I-130 before you can file for your green card in the United States.

## 2. Step One: The I-130 Visa Petition

The I-130 visa petition is used by every U.S. petitioner bringing in a family member from overseas. Accordingly, your U.S. citizen spouse can follow the instructions earlier in this chapter on how to fill out this petition, and prepare the other forms and documents (such as Form G-325A, proof of citizenship, photos, and fees) that must accompany it. Complete instructions are found in Section B3, above, including Subsections a, b, and c. There’s only one change to these instructions, based on your plans to apply for a K-3 visa: On Form I-130, on Question 22 of the form, your U.S. spouse should write: “Applicant plans to obtain a K-3 visa abroad and adjust status in the United States,” then fill in the lines regarding which city you plan to adjust status (apply for your green card) in, and which consulate you’d return to, if necessary, as a backup.

Expect the decision on this petition to take a long time. See Chapter 15 for what to do if the answer seems to be taking even longer than expected.

### 3. Step Two: The I-129F Fiancé Visa Petition

Your U.S. citizen spouse indicates that you're interested in a K-3 visa by filing a fiancé visa petition—Form I-129F Petition for Alien Fiancé(e)—with a special USCIS office in the United States.

We'll go through how to prepare and assemble the various forms and documents that go into this petition, one by one. To keep track of them all, use the "Checklist for K-3 Fiancé Visa Petition," in Subsection e, below.

#### a. Line-by-Line Instructions for Form I-129F Visa Petition

This section will give you precise instructions for filling out the forms required for your K-3 visa petition. Whoever reads these instructions should have a copy of the appropriate forms in hand.

#### i. Form I-129F

Form I-129F is normally printed out double-sided, head-to-foot, on pastel pink paper.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. For illustration purposes, the first page of this form is shown below.

The first thing to notice about Form I-129F is that it runs in two columns. The left column, or Section A, asks for information about your U.S. citizen fiancé. (Don't be confused by the fact that the form calls your fiancé "you.") The right column asks for information about you, the immigrating ("alien") spouse (although it says fiancé—someday, they'll revise this form!).

#### Part A

**Question 1:** The U.S. citizen spouse must enter his/her last name (surname) in all capital letters, but

### Form I-129F, Petition for Alien Fiancé(e)

U.S. Department of Homeland Security Bureau of Citizenship and Immigration Services			OMB No. 1615-0001; Expires 11/30/04		
			<b>I-129F, Petition for Alien Fiancé(e)</b>		
<b>DO NOT WRITE IN THIS BLOCK</b>			<b>FOR CIS USE ONLY</b>		
Case ID #	Action Block		Fee Stamp		
A #					
G-28 #					
The petition is approved for status under Section 101(a)(5)(k). It is valid for four months from the date of action.					
Remarks:					
<b>Part A. Information about you.</b>			<b>Part B. Information about your alien fiancé(e).</b>		
1. Name (Family name in CAPS) (First) (Middle)			1. Name (Family name in CAPS) (First) (Middle)		
<div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div>			<div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div>		
2. Address (Number and Street) Apt. #			2. Address (Number and Street) Apt. #		
<div style="border: 1px solid black; width: 150px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 50px; height: 20px; display: inline-block;"></div>			<div style="border: 1px solid black; width: 150px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 50px; height: 20px; display: inline-block;"></div>		
(Town or City) (State or Country) (Zip/Postal Code)			(Town or City) (State or Country) (Zip/Postal Code)		
<div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div>			<div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div>		
3. Place of Birth (Town or City) (State/Country)			3. Place of Birth (Town or City) (State/Country)		

the other names in small letters. For example, if your spouse's name were Samuel Lawrence Cole, he would enter, "COLE" in the first box, "Samuel" in the second box, and "Lawrence" in the third. (Always spell out the entire middle name.)

**Questions 2-5:** Self-explanatory.

**Question 6:** Check the box that says "Married." Only check one box (so that, for example, if your spouse had been previously married, he or she wouldn't also check "Divorced.")

**Question 7:** Self-explanatory. (A maiden name is the woman's name before marriage.)

**Question 8:** Self-explanatory.

**Question 9:** There's a reason for these questions: If your U.S. citizen spouse's earlier marriages weren't already over by the time he or she married you, your marriage may not be valid, and you'll be ineligible to immigrate. (Make sure that under "Date(s) Marriages" the U.S. citizen gives both the date the marriage started and the date the divorce became final, as opposed to the date the two split up housekeeping.) See a lawyer if there's a problem.

**Question 12:** If the U.S. citizen spouse's citizenship was obtained through naturalization, the number can be found on the top right-hand side of the naturalization certificate. The date and place issued are also shown on the certificate. If his or her citizenship was obtained through parents, he or she may have a certificate of citizenship, which would clearly show a number that can be entered on this form. (It's possible, however, that your spouse has only a U.S. passport, which is also an acceptable form of proof of citizenship.)

**Question 13:** If the U.S. citizen has ever submitted other Forms I-129F, USCIS may take a look at those files to make sure there was no fraud involved. There's nothing automatic about its decision—after all, it is perfectly possible for a U.S. citizen to fall in love with more than one foreign-born person, and for the first marriage to end. But there are U.S. citizens who charge money to marry and sponsor noncitizens, and USCIS is on the lookout for them.

## Part B:

Now we're back to you, the foreign-born spouse.

**Questions 1-5:** Self-explanatory.

**Question 6:** Check only the "Married" box.

**Question 7:** Self-explanatory (maiden name is your name before you were married, if you changed it afterward).

**Question 8:** You won't have a Social Security number unless you have lived in the United States; insert "N/A" if you don't have one.

**Question 9:** The Alien Registration Number or A-Number is an eight-digit number following the letter "A" (for Alien) that USCIS or the former INS will have assigned to you if you previously applied for permanent or in some cases temporary residency, or have been in deportation or removal proceedings. If you have an A-Number, you must enter it here.



**If your previous application was denied because you were inadmissible, or if you lied on that application, call a lawyer before going any farther.** See Chapter 17 for tips on finding a good attorney.

**Question 10:** These questions relate to the eligibility requirement that this be your only marriage. See explanation of eligibility in Chapter 2, Section B.

**Question 11:** Self-explanatory.

**Question 12:** You can enter "N/A" here, since you are not in the United States.

**Question 13:** This refers to all your (the immigrant's) children, whether born of this relationship or a previous one.

**Question 14:** Hopefully your intended address in the United States is the same as that of your U.S. citizen spouse, or USCIS will raise questions. Even if you will spend some time away from your married home, such as for school or work, you should consider your married home to be your permanent address. If there is a compelling reason that you will have a completely separate residence, attach documents to explain why, or consult a lawyer.

**Question 15:** Self-explanatory.

**Question 16:** If your native language uses a non-Roman script (for example, Russian, Chinese, or Ara-

bic), you'll need to write your name and address in that script.

**Questions 17 and 18:** These questions are meant for fiancés. You can simply answer "N/A" here.

**Question 19:** Enter the name of the U.S. consulate where you plan to attend your visa interview. This must be in the same country where you got married—or, if you married in the United States, in the country where the immigrating spouse now lives.

### Part C:

Now the questions once again refer to the U.S. citizen spouse.

The U.S. citizen needs to sign and date the forms under the paragraph that starts **Your Certification**.

### Part D:

This section need not be filled in if you just got a little help from a friend. This line is mainly for lawyers or agencies who fill out these forms on clients' behalf.

## ii. Form G-325A

Along with your K-3 visa petition package, you'll need to submit two forms G-325A, one for you and one for your spouse. Because this is the exact same form as was submitted with Form I-130, we won't repeat the instructions here. However, it's best to submit forms with original signatures to USCIS, instead of photocopying the ones you submitted with Form I-130.

## b. Documents That Must Accompany Your K-3 Visa Petition

In addition to filling in forms, you must also provide various documents and other items in support of your K-3 visa petition. This section contains detailed instructions on how to satisfy these requirements, which are also summarized on the checklist at the end of this section.

- **Proof of the U.S. citizenship status of your petitioning spouse.** Depending on how your spouse became a citizen, this might include a copy of a birth certificate, passport, certificate

of naturalization, certificate of citizenship, or Form FS-20 (Report of Birth Abroad of a U.S. Citizen).

- **Proof that your spouse filed Form I-130 with USCIS.** You may need to wait until the USCIS Service Center sends a Form I-797 receipt notice, then photocopy this and send the copy. However, many people have successfully gotten USCIS to accept other types of proof of filing, including a complete copy of your Form I-130, as well as proof of mailing.
- **Photos.** For the USCIS instructions on photos, (what size and how to pose), see Form M-378, in Appendix E. However, USCIS regulations permit you to submit a photo that doesn't completely follow the instructions if you live in a country where such photographs are unavailable or cost prohibitive.
- **Fee.** The current fee for an I-129F visa petition is \$165. However, these fees go up fairly regularly, so double check this on the USCIS website at [www.uscis.gov](http://www.uscis.gov) or by calling 800-375-5283. Make checks or money orders payable to USCIS (don't send cash).

## c. Where to Send the K-3 Visa Petition

When your U.S. citizen spouse has finished filling out and assembling everything for the K-3 visa petition, he or she must send it to USCIS at a special office set up for this purpose, whose address is: USCIS, P.O. Box 7218, Chicago, IL 60680-7218.

Your spouse should also photocopy and send a copy of the K-3 visa petition packet to you. File it carefully with your other records and familiarize yourself with the materials and answers so you'll be prepared to explain anything contained in that packet during your upcoming visa interview.

## d. What Will Happen After Sending in the K-3 Visa Petition

A few weeks after sending in the K-3 Fiancé Visa Petition, the USCIS office will send your spouse a notice titled Notice of Action, and numbered I-797C.



This notice will say how long the petition is likely to remain in processing (usually around three months). Until that predicted decision date, USCIS will ignore any letters from you asking what is going on. If there are any delays, the most reliable way to communicate with USCIS is by letter (see Chapter 15).

If USCIS needs additional documentation to complete the Fiancé Visa Petition, it will send the U.S. citizen a letter asking for it. It's best to respond to these requests as soon as possible, though taking care, as always, to keep copies of whatever you send for your records (and to prove it was sent).

Once the petition is approved, USCIS will notify the U.S. citizen spouse as well as the consulate where the interview is to take place (in your country of marriage or, if you were married in the U.S., in the country where the immigrating spouse lives). This stage can take some weeks.

#### e. Using the Checklist for K-3 Visa Petition

When you put it all together, the K-3 Visa Petition involves three forms and some supporting documents, as detailed on the following checklist. As you fill out and prepare your paperwork, mark off the items that you've found or finished on this checklist. This will be the best way to make sure you haven't forgotten anything.



The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

### 4. Step Three: Immigrant Mails Forms to the Consulate

After the Form I-129F has been approved, USCIS will forward your file to a central processing facility called the National Visa Center (NVC). The NVC will transfer your case file to the U.S. consulate in the country where you were married. The consulate will then send you, the immigrant, an Instruction Package containing forms and instructions. To keep the process moving, you'll need to fill out certain of these forms and return them to the consulate in preparation for your interview.

We'll go through these forms step by step.

#### a. Line-by-Line Instructions for Forms That K-3 Applicant Mails to Consulate

This section will give you instructions for filling out the forms that you receive. Be sure to have a copy of the appropriate form in hand as you go through these instructions. However, be aware that some of the forms may vary from the samples in this book,

#### Checklist for K-3 Visa Petition

- |  |   |
|--|---|
| <input type="checkbox"/> Form I-129F (see Subsection a, above, for line-by-line instructions)  | <input type="checkbox"/> A color photo of you (see Appendix E for USCIS's photo instructions)                     |
| <input type="checkbox"/> Form G-325A (one filled out by you and one by your spouse, identical to the G-325As you already filled out to accompany the Form I-130 visa petition) | <input type="checkbox"/> A color photo of your spouse (see Appendix E)  |
| <input type="checkbox"/> Proof that U.S. citizen already filed Form I-130 Visa Petition with USCIS Service Center (a copy of I-797 receipt notice is best).                    | <input type="checkbox"/> Fee (currently \$165; double check at <a href="http://www.uscis.gov">www.uscis.gov</a> ) |
|  | <input type="checkbox"/> Proof of U.S. citizenship of U.S. citizen spouse.  |



since they've been adapted for use by particular consulates.

#### i. Form DS-156, Nonimmigrant Visa Application

Form DS-156 is a basic form consulates use to test the eligibility of immigrants coming for temporary stays, including not only truly unmarried fiancés, but tourists, students, and others. Don't be confused by the sections that don't apply to you—in particular, those demanding that the applicant prove that he or she doesn't intend to stay in the United States permanently. You're permitted to stay in the United States permanently (assuming all goes well with your green card application), and you don't need to hide that fact.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G, but use the form that you get from the consulate if it's different. Below is a picture of the first page of this form.

**Questions 1-16:** Self-explanatory.

**Question 17:** Check the “married” box, and no other box.

**Questions 18-21:** Self-explanatory.

**Question 22:** It's okay to approximate an arrival date if you haven't yet purchased tickets. After all, you might want to wait to buy your ticket until the consulate has approved your K-3 visa.

**Question 23:** If you don't have an email address, write “None.”

**Questions 24 and 25:** The name and address of where you will stay in the United States will hopefully be your spouse's.

**Question 26:** Write “permanently; will apply for permanent residence upon arriving in United States with K-3 visa.”

**Question 27:** The purpose of your trip is “join U.S. citizen spouse and complete application for permanent residence.”

**Question 28:** The person named here as paying for your trip should either be you, your spouse, or

### Form DS-156, Nonimmigrant Visa Application

U.S. Department of State <b>NONIMMIGRANT VISA APPLICATION</b>				Approved OMB 1405-0018 Expires 08/31/2004 Estimated Burden 1 hour See Page 2		
PLEASE TYPE OR PRINT YOUR ANSWERS IN THE SPACE PROVIDED BELOW EACH ITEM						
1. Passport Number	2. Place of Issuance: City		Country	State/Province	<b>DO NOT WRITE IN THIS SPACE</b> B-1/B-2 MAX    B-1 MAX    B-2 MAX Other _____ MAX Visa Classification Mult or _____ Number of Applications Months _____ Validity Issued/Refused On _____ By _____ Under SEC.    214(b)    221(g) Other _____ INA Reviewed By _____	
3. Issuing Country	4. Issuance Date (dd-mmm-yyyy)		5. Expiration Date (dd-mmm-yyyy)			
6. Surnames (As in Passport)						
7. First and Middle Names (As in Passport)						
8. Other Surnames Used (Maiden, Religious, Professional, Aliases)						
9. Other First and Middle Names Used			10. Date of Birth (dd-mmm-yyyy)			
11. Place of Birth: City		Country	State/Province	12. Nationality		
13. Sex <input type="checkbox"/> Male	14. National Identification Number (If applicable)		15. Home Address (Include apartment number, street, city, state or province, postal zone and country)			

the person who signed an Affidavit of Support on your behalf, to avoid confusion about whether you'll be adequately supported in the United States.

**Question 29:** Self-explanatory—they'll be looking for past visa fraud or time spent unlawfully in the United States.

**Question 30:** This question calls for you to mention any visas that you might have applied for in the past, whether immigrant (permanent) or nonimmigrant (temporary, such as student or visitor) visas. If you applied for an immigrant visa in the past, then the question of what happened to it will arise—if you were denied, why, and if you were approved, why do you now need to apply for another immigrant visa? If you applied for a nonimmigrant visa, this shouldn't create any problems unless you used fraud, or after arriving in the United States, you stayed past the date when you were supposed to leave. Another problem might arise if you were in the United States on a J-1 (exchange student) visa and you haven't yet completed your two-year "home country" residency requirement. If you had a J-1 or J-2 visa in the last two years, consult a lawyer.

**Question 31:** This asks whether you have ever been refused a visa. Many people have been refused visas to the United States, particularly in the tourist visa category. Therefore admitting that you're one of the many is not necessarily a strike against you. However, if the reason for the denial was fraud or something similar, it may lead USCIS to deny your current, K-3 visa application.

**Question 32:** If you plan to work in the United States, it's fine to say so here—this question is mostly meant for tourists and others who aren't allowed to work.

**Question 33:** This question is primarily for student visa applicants. You're best off inserting "N/A."

**Question 34:** Enter the names of any of your children who will be accompanying you to the United States. As the form mentions, a separate Form DS-156 will have to be submitted for each of them.

**Question 35:** If you have ever had a visa cancelled or revoked, consult a lawyer before continuing.

**Question 36:** This question asks about any immigrant (permanent) petitions filed for you, perhaps by a family member who is a U.S. citizen or resident, or an employer. If these petitions are still pending, no problem—you're allowed to have more than one petition going on at the same time, so long as they don't reveal contradictory intentions on your part. (For example, if one of the petitions was filed by a different spouse, that's a problem.) If the petitions have already been decided, and were denied, then problems could also arise if the denials were for reasons that reflect badly on you, such as fraud.

**Question 37:** Self-explanatory. This question is mainly directed at tourist visa applicants—the government wants to make sure that tourists and other temporary visitors don't plan to join their family and stay permanently.

**Question 38:** These questions are designed to see if you are inadmissible to the United States (see Chapter 2 for more on the grounds of inadmissibility). If your answer to any of these questions is "yes," see a lawyer before continuing.

**Questions 39 and 40:** These questions concern whether lawyers, paralegals, or other agencies may have filled in this form for you—it's okay if they did, assuming they didn't just tell you what to say or counsel you to lie.

**Question 41:** Sign and date the application.

## ii. Form DS-156K

This is a very short form designed to collect some information that Form DS-156 neglected to ask for.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G, but use the form that you get from the consulate if it's different. Below is a picture of the form.

**Questions 1-4:** Self-explanatory.

**Question 5:** List all of your children, whether or not they are immigrating to the United States. Then check the boxes at the right to tell the consulate whether they are, indeed, immigrating. If they'll be coming at the same time as you, check the

“yes” box on the left. If they’ll follow you some months later, check the “yes” box on the right.

Don’t write anything else on this form—you won’t sign it until your consular interview.

after you send your final version to the consulate. That way your spouse can make sure the forms are consistent with everything else that you two are submitting.

## b. Where to Send Your Completed Forms


After you’ve filled out the forms mailed to you by the NVC, you’ll mail them to the consulate, whose address will be in the materials that you received. If the consulate is in your home country, it will probably be the one located nearest to you. But if you were married in a different country, then it will be at a consulate there. Also, if your country doesn’t have diplomatic relations with the United States, it will be at a consulate in a different country.

If you are filling these forms out on your own, we recommend photocopying them and sending a copy to your U.S. citizen spouse both before and

## c. What Happens After You Mail in Packet of Forms

Once you’ve sent the consulate the required forms, it will request a security clearance from every place you’ve lived since age 16. Usually, the consulate simply asks a government office to check its records to see whether you have a police record, and to send notification of what it finds. The consulate will also send your name to be checked against the records of the U.S. FBI and CIA. Assuming your records come back clean, the consulate will move to the next step.

## Form DS-156K, Supplement to Form DS-156

		U.S. Department of State <b>NONIMMIGRANT FIANCÉ(E) VISA APPLICATION</b> USE WITH FORM DS-156		OMB APPROVAL NO.1405-0096 EXPIRES: 05/31/2004 ESTIMATED BURDEN: 1 HOUR*
The following questions must be answered by all applicants for visas to enter the United States as the fiancée or fiancé of a U.S. citizen in order that a determination may be made as to visa eligibility.				
This form, together with Form DS-156, Nonimmigrant Visa Application, completed in duplicate, constitutes the complete application for a "K" Fiancé(e) Nonimmigrant Visa authorized under Section 222(c) of the Immigration and Nationality Act.				
1. FAMILY NAME		FIRST NAME		MIDDLE NAME
2. DATE OF BIRTH (mm-dd-yyyy)		3. PLACE OF BIRTH (City, Province, Country)		
4. MARITAL STATUS If you are now married or were previously married, answer the following:				
a. Name of spouse: _____				
b. Date (mm-dd-yyyy) and place of marriage: _____				
c. How and when was marriage terminated: _____				
d. If presently married, how will you marry your U.S. citizen fiancé(e)? Explain:*				
* NOTE: If presently married to anyone, you are <b>not</b> eligible for a fiancé(e) visa.				
5. LIST NAME, DATE AND PLACE OF BIRTH OF ALL UNMARRIED CHILDREN UNDER 21 YEARS OF AGE _____				

#### d. Using the Checklist of Forms K-3 Applicant Mails to the Consulate

These forms shouldn't take you very long to prepare. Check them off the list below as you've finished them, make copies, and get your packet in the mail. Also be sure to follow any additional instructions your local consulate may add.



The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

##### Checklist of Forms K-3 Applicant Mails to Consulate

- ☐ Form DS-156 Part I (see Subsection a(i), above, for line-by-line instructions).
- ☐ Form DS-156K (see Subsection a(ii), above, for line-by-line instructions).

### 5. Step Four: Final Forms and K-3 Visa Interview

For the fourth step in the K-3 visa application process, the consulate will send you an Appointment Package, containing an appointment date and additional instructions and possibly forms (depending on the consulate). These will include instructions for getting your medical exam. There will be a fee for this exam, but it varies between doctors and countries. The consulate may also require Form I-134, an Affidavit of Support that your U.S. citizen spouse must fill out to show that you'll be supported financially (see line-by-line instructions below).

You'll get two to four weeks notice of your upcoming visa interview.



**Remember, if your I-130 visa petition is approved before your K-3 visa interview, you will no longer be eligible for a K-3 visa and will have to complete the process for an immigrant visa.** This is a rare event, however, and hardly the worst thing that could happen. The consulate will help you shift gears toward an immigrant visa application.

#### a. Line-by-Line Instructions for Form I-134

Not all consulates require Form I-134 as part of the K-3 visa application, though all will require some evidence that you won't need to go on welfare or receive other government assistance. If you have children immigrating with you, the children won't need separate Forms I-134—listing their names in Question 3 is sufficient.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

What this form doesn't tell you is that the U.S. government can be very strict in its opinion of how much it takes to support someone. Read Chapter 3 for further discussion of how to satisfy the government's requirements. After your U.S. citizen spouse is done filling in the blanks on the form, refer to the instructions at the bottom of this section to find out if the amount is sufficient. If not, go back to Chapter 3 for suggestions.

**Paragraph 1:** Self-explanatory.

**Questions 1 and 2:** Self-explanatory.

**Question 3:** This is for information about you, the intending immigrant.

**Question 7:** Back to the U.S. citizen, who must enter information about his or her employment. For "type of business" it's fine to state one's position, such as "accountant," or a more generic description, such as "sales."

On the next set of lines, the U.S. citizen enters his or her income and assets. The question about

the amount “on deposit in savings banks in the United States” is a little misleading—amounts in checking accounts count, too. For “personal property,” the U.S. citizen doesn’t need to consider the value of every item he or she owns. An approximate total value on his or her cars, jewelry, appliances (stereo, television, refrigerator), automobiles, cameras, and other equipment will do. But when it comes time for the green card application in the United States, the U.S. citizen sponsor will have to provide proof of ownership of any assets claimed here.

**Question 8:** Anyone whom the sponsor has listed on his or her tax returns should be entered here.

**Question 9:** This question attempts to find out whether the U.S. citizen is overextending him or herself financially. If he or she has filled out this form or Form I-864 (The Affidavit of Support used in green card applications) on behalf of any other immigrant, these lines should be filled in.

**Question 10:** For the reasons that underlie Question 9, the U.S. government wants to know whether the U.S. citizen is planning to sponsor anyone else, having filed a visa petition on their behalf.

Even if you are the only person being sponsored, the U.S. citizen should fill in your name here, with a notation by your name saying “subject of this Affidavit.”

**Question 11:** Enter “N/A” (Not Applicable). This is only for visitors who are truly temporary, such as tourists.

**Oath or affirmation of deponent:** Here is a lovely example of excruciating legalese. Don’t try to puzzle this out, just take the form to a notary public where you will sign it. A notary public is someone who is legally authorized by a state government to check a person’s identification and make sure that the person signing the document is the one who is named as the person who should sign. To convince a notary of his or her identity, the U.S. citizen should bring a driver’s license or other form of photo identification. The notary will then ask your U.S. citizen spouse to sign the form, and will place a stamp on it. The notary should not charge more than around \$15 for this service. Notaries can easily be found by looking in the Yellow Pages of your phone book.

### Form I-134, Affidavit of Support

U.S. Department of Justice Immigration and Naturalization Service	OMB No. 1115-0062 <b>Affidavit of Support</b>		
<i>(Answer All Items: Fill in with Typewriter or Print in Block Letters in Ink.)</i>			
I, _____ residing at _____ <div style="display: flex; justify-content: space-between; margin-top: -10px;"> <span>(Name)</span> <span>(Street and Number)</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <span>(City)</span> <span>(State)</span> <span>(Zip Code if in U.S.)</span> <span>(Country)</span> </div>			
<b>BEING DULY SWORN DEPOSE AND SAY:</b> 1. I was born on _____ at _____ <div style="display: flex; justify-content: space-between; margin-top: -10px;"> <span>(Date)</span> <span>(City)</span> <span>(Country)</span> </div> <p style="margin-left: 20px;">If you are <b>not</b> a native born United States citizen, answer the following as appropriate:</p> <ul style="list-style-type: none"> <li>a. If a United States citizen through naturalization, give certificate of naturalization number _____</li> <li>b. If a United States citizen through parent(s) or marriage, give citizenship certificate number _____</li> <li>c. If United States citizenship was derived by some other method, attach a statement of explanation.</li> <li>d. If a lawfully admitted permanent resident of the United States, give "A" number _____</li> </ul>			
2. That I am _____ years of age and have resided in the United States since (date) _____ 3. That this affidavit is executed in behalf of the following person:			
Name _____	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Gender _____</td> <td style="width: 50%;">Age _____</td> </tr> </table>	Gender _____	Age _____
Gender _____	Age _____		
Citizen of (Country) _____	Relationship _____		



## Is the Total Support Amount Sufficient?

Technically, Form I-134 only covers your temporary stay in the United States, until you get your green card, so the consulate may not require your U.S. citizen spouse to show a specific income level—despite the fact that they have asked him or her to fill out this form. However, it's wise to look at the income levels that USCIS will ultimately demand to see at your green card interview in the United States. There is a chance that the consular officer will apply a similar standard.

Go back to the form you filled out and follow these steps:

1. Total up all the assets listed (everything except income).
2. Subtract the mortgages and encumbrances, and divide that total by five.
3. Add this figure to the amount of income.
4. Total up the number of people the U.S. citizen will have to support. This should include: the citizen, the immigrant, any children immigrating at the same time, and any additional persons listed in questions 8 and 9.
5. Check the *Poverty Guidelines* chart located in Chapter 3, Section A. In the left column, find the line corresponding to the number of people that the U.S. citizen is responsible for supporting. Now look at the right column. That's the total amount of income plus assets that the U.S. government will want to see when you apply for your green card. If your U.S. citizen spouse's income and assets (the sum you calculated earlier) don't reach that level, reread Chapter 3.

The good news is that by the time you have reached your U.S. green card interview, you will probably have had a work permit for several months, and can contribute to the household income.

## b. Document Instructions for K-3 Application Process

This section contains detailed instructions about some of the documents on the Checklist for K-3 Appointment Package listed below.

### i. Copy of U.S. Citizen's Most Recent Federal Tax Return

As part of proving that your spouse can support you financially, he or she will probably be asked to provide a complete copy of his or her federal tax return, including the W-2 slips. There is no need to include the state tax form.

The consulate prefers to see the tax return in the form of IRS transcripts (an IRS-generated summary of the return that your U.S. citizen spouse filed), which your spouse can request using IRS Form 4506, available through the IRS website at [www.irs.gov](http://www.irs.gov) or by calling 800-TAX-FORMS (800-829-3676). However, it is usually a wait of several weeks to get the transcript. Don't let this hold up the immigration process. If the transcript hasn't come by the time of your interview, simply use your U.S. citizen petitioner's own copies of the tax return.

### ii. Letter from U.S. Citizen's Bank(s) Confirming the Account(s)

The U.S. citizen should ask all of his/her banks reported on page 1 of Form I-134 to draft simple letters confirming the accounts. The letters can be addressed to "To Whom It May Concern," and should state the date the account was opened, the total amount deposited in the last year, and the present balance.

Banks will often (without your asking) also state an average balance. Be aware that if this is much lower than the present amount, the consulate will wonder whether the U.S. citizen got a quick loan from a friend to make the financial situation look more impressive.

### iii. Employer Letter

With Form I-134, your U.S. citizen spouse will also need to enclose a letter from his or her employer confirming the employment and salary. For a sample letter, see Section B5b of this chapter.



#### iv. Medical Exam

To prove that you are not inadmissible for medical reasons, you will have to present the results of a medical exam done by a doctor approved by the U.S. consulate. This is the same type of medical exam you would have to have if you were applying for a marriage-based immigrant visa, except that you won't be required to complete all your vaccinations until you're in the United States, and applying for your green card. For more details on this exam, see Section B5d of this chapter.

#### v. Birth Certificates

You, as well as any of your children who will be accompanying you on K-4 visas, will be asked to provide copies of birth certificates, and to show the originals as well. If these documents are not in English, you'll also need to provide a word-for-word translation, created and signed by someone competent in both languages. See Chapter 4, Section C, for more on appropriately formatting document translations.

#### vi. Proof of Bona Fide Marriage

Some consulates also want to see proof that you and your spouse are truly a married couple—in other words, that you did not get married merely in order to get a green card. Such proof might include copies of your personal letters, emails, phone bills, wedding photos, joint credit card bills, and the like.

#### c. Where You Will Take Your K-3 Appointment Package

On the day of your interview, you will be expected to arrive at the consulate with forms and documents in hand, according to the consulate's instructions. To prepare for your interview, you will not only want to read the section in this chapter on filling out the forms and gathering documents, but also read Chapter 13, Interviews With USCIS or Consular Officials.

Soon after you have attended your interview and been approved, the consulate will give you a visa to enter the United States. Ideally you will receive the visa within a few days of your interview, but recent

delays for FBI and CIA security checks have been adding weeks to the process, especially for people with common names.

Your "visa" will actually be a thick sealed envelope, stuffed full of most of the forms and document that you have submitted over the course of this process. Once you receive your K-3 visa, you will have six months to enter the United States. The visa will be good for multiple entries to the United States for up to ten years, or in the case of children, for up to the child's 21st birthday.

#### d. When to Apply for Your Green Card

You should start working on your green card application as soon as you arrive the United States. However, realize that you will not be able to complete your application until you receive the approval of the Form I-130 visa petition that your U.S. citizen spouse filled on your behalf. If the long wait is becoming difficult for some reason, one option is to prepare a new Form I-130, and submit it with your green card application. However you would have to pay the form I-130 fee a second time. For complete instructions on the remainder of the green card application package, see Chapter 14, Applying for a Green Card at a USCIS Office.

#### e. Using the Checklist for K-3 Appointment Package

Which forms you are required to prepare for your K-3 appointment package may depend on your consulate. The ones listed on the checklist below are those most commonly required. However, if the consulate adds any to this list, you will of course need to provide those as well.



The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

### Checklist for K-3 Appointment Package

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Original INS or USCIS Notice of Action approving your I-129F visa petition</li> <li><input type="checkbox"/> A complete copy of your I-129F visa petition (the items in the checklist earlier) in case USCIS did not forward it to the consulate</li> <li><input type="checkbox"/> Originals of documents submitted in connection with the I-129F visa petition, such as your spouse's U.S. birth certificate and proof that any previous marriages were legally ended</li> <li><input type="checkbox"/> Two copies of Form DS-156, nonimmigrant visa application</li> <li><input type="checkbox"/> One copy of Form Ds-156K, nonimmigrant fiancé visa application form</li> <li><input type="checkbox"/> Form I-134, Affidavit of Support, if the consulate requested it (see line-by-line instructions in Section 5a, above)</li> <li><input type="checkbox"/> Documents to accompany Form I-134, including:             <ul style="list-style-type: none"> <li><input type="checkbox"/> Proof of U.S. citizen's employment</li> <li><input type="checkbox"/> Copy of U.S. citizen's most recent federal tax return</li> <li><input type="checkbox"/> Letter from U.S. citizen's bank confirming the account</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> A valid passport from your home country, good for at least six months after the interview</li> <li><input type="checkbox"/> Your original birth certificate plus a copy, and birth certificates for any children who will be accompanying you</li> <li><input type="checkbox"/> An original police clearance certificate, if this is available in your country (the instructions from the consulate will tell you)</li> <li><input type="checkbox"/> Your original marriage certificate</li> <li><input type="checkbox"/> Two photos of you, the immigrating fiancé, taken according to the consulate's instructions</li> <li><input type="checkbox"/> Your medical examination, in an unopened envelope (see Chapter 2, Section A, for more on the medical exam)</li> <li><input type="checkbox"/> Fingerprints (you will receive instructions from the consulate)</li> <li><input type="checkbox"/> Proof that your marriage is the real thing</li> <li><input type="checkbox"/> Any other items or forms requested by the consulate</li> <li><input type="checkbox"/> Application fee (currently \$100).</li> </ul> |
|---|--|

## 6. Step Five, At the Border

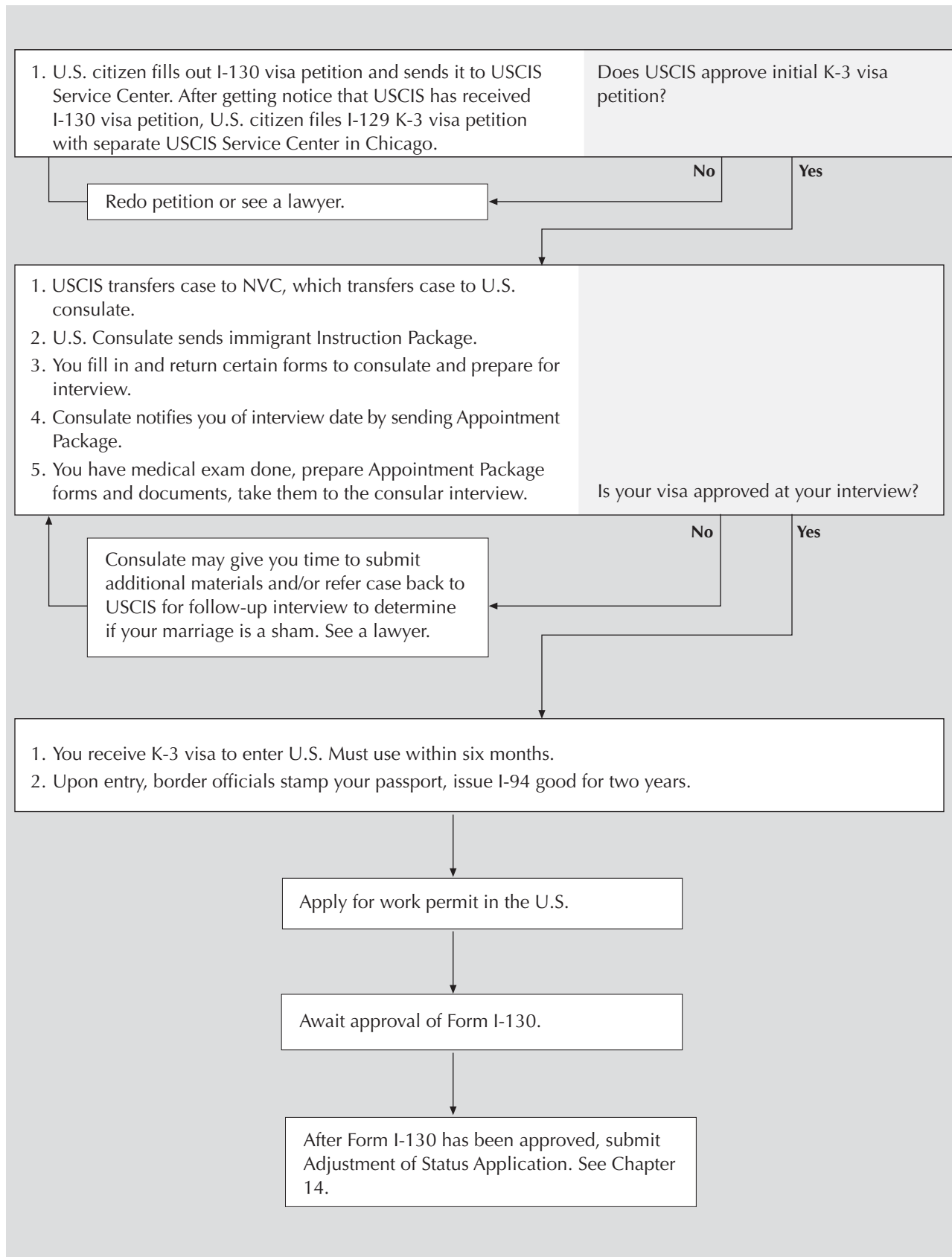
Assuming all goes well at the visa interview you will be given a K-3 visa, and your children, if any, will be given K-4 visas. You will have six months to use the visa(s) to enter the United States.

At the border, airport, or other port of entry, a U.S. border officer will open the sealed envelope containing your visa documents, and do a last check to make sure that you have not used fraud. Though this part of the process should not be a problem, don't treat it lightly. If the officer spots a reason why you should not have been given the K-3 visa, he or she has the power (called expedited removal) to deny your entry right there. You would have no

right to a lawyer or a hearing but would simply have to turn around and find a flight or other means of transport home. And you wouldn't be allowed back within five years unless the border officials asked you to withdraw the application before they officially denied it, which is entirely at their discretion.

After advice like this, the hardest thing to hear is "just stay calm." It may be impossible to control your beating heart, but whatever you do, don't start speaking more than is necessary. The worst thing someone could do at this stage is to make a nervous joke. Border officials are not known for their sense of humor, and some statements could be used as a reason to question you further or to deny you entry.

## K-3 Visa Application Process



When the officer is satisfied that everything is in order, he or she will give you a small white card called an I-94 to put into your passport, allowing you to stay in the United States for two years. You are allowed to go in and out of the United States during that time. You may notice that the K-3 visa that the consulate stamped in your passport was good for multiple entries over ten years. Indeed, if you leave the United States and your green card application has not yet been resolved, you can continue to use the K-3 visa stamp to reenter for up to ten years. However if you stay in the United States past two years without leaving and coming in again, you will need to separately apply for an extension of status. Similarly, your children will be admitted on K-4 visas for two years or until the day before their 21st birthday, whichever is shorter, but can apply for extensions if they remain in the United States, or can leave and return on their K-4 visas until they expire.

If you plan to work while you are in the United States, you will need to apply for work authorization, using Form I-765. This form is available on the Forms CD in the back of this book. The I-765 should be filed at the same Service Center in Chicago where the K-3 petition was filed.



For how to obtain your green card after you are in the United States, see Chapter 14. Also note that if your local USCIS office is extremely backed up, it is possible for you to return to an overseas consulate for completion of your immigrant visa processing. However, you will still need to wait for approval of Form I-130 before taking this step.

## D. How to Have Your Children and Pets Accompany You

Although your whole family cannot immigrate right now, U.S. laws and regulations do recognize the need for certain of your loved ones to accompany you to the United States and live there with you, including your children and certain pets.



### **Check your own country's law on taking your children if their other parent is staying behind.**

If you will be bringing children to the United States who are not the biological children of your U.S. spouse, or who became the adopted children of another person, it will be up to you to comply with any custody requirements. Even if the children are legally in your custody, you may need to get written consent from the other parent for you to take the children out of the country.

## 1. Children of Spouse on an Immigrant Visa

Your foreign-born children, whether they are the biological children or the stepchildren of your petitioning spouse, may be eligible to obtain green cards through him or her. For the fundamentals of children's eligibility, see Chapter 2, Section B.

If the children are unmarried and were under age 21 when their visa petition was filed, they will have to go through the identical four steps described in Section B, above. As part of these steps, you must prove that the children are not only yours, but are also your spouse's biological children or legal stepchildren, that they are not inadmissible, and that they will be financially supported along with you. For more guidance on how to apply steps one through four to a child's application, see Subsection a, below.

Children who were over age 21 when their visa petition was filed, or who don't qualify as stepchildren or are married, will not be able to immigrate to the United States at the same time as you. As a U.S. citizen, your spouse may file visa petitions for them, but they will be subject to quotas and waiting periods. This book does not cover how to file these visa petitions.

### a. Immigrant Visa Application Procedures for Children

This section contains a brief overview of the procedures for immigrating children, but complete details

(especially line-by-line instructions on filling out the forms) are outside the scope of this book. Once you've filled out all the paperwork described in this book, you will have a good basis of knowledge with which to fill out these forms for your children; or you might be more comfortable using a lawyer.

To start the process, your U.S. citizen spouse will need to fill out a separate visa petition (Form I-130) for each child. However, the children do not need to fill out Form G-325A, nor do they need to have their photos included in the visa petition. Include copies of your and your spouse's marriage certificate, but also include copies of the children's birth certificates to show the family relationships.

At the Step Two (NVC mailing) stage, you will have to send a Form DS-230 Part I for each of your children (the same form you filled out for yourself). However, you only need to fill out Form OF-169 for yourself; the children's names will be listed within the form. The National Visa Center should send you separate Forms DS-230 Part I for each child. If they don't, either ask for separate packets or simply make photocopies of the forms sent to you.

When it's time for your interview, the children will have to submit all the same types of forms and documents as you, except they can simply submit photocopies of the Affidavit of Support (Form I-864). Of course, you'll want to make sure that their names are listed on the Form I-864 and that the income and assets shown are sufficient to cover them. If your child is under the age of 16, he or she will not need to submit a police certificate.

You can expect to attend your interviews together. The children probably won't have to answer more than one or two questions.

## 2. Children of the Immigrant Spouse on a K-4 Visa

Your foreign-born children, whether they are the biological children or the stepchildren of your petitioning spouse, may be eligible to obtain what are called K-4 visas to accompany you to the United States, and then to obtain green cards once you are

all in the United States. For the fundamentals of children's eligibility, see Chapter 2, Section B.

If the children are unmarried and under age 21, they will have to go through the identical five steps you did in applying for the entry visa. However they will not need a separate Form I-129F—it is sufficient for their names to be entered on your form. (They will, however, need separate Forms I-130 to be filed, not as a prerequisite to getting the K-4 visa, but in order to make them eligible for green cards after they have entered the United States.)

As part of the application process in getting your children a K-4 visa, you will need to prove that the children are yours, using a birth certificate or other proof. In addition, you will need to prove that they are not inadmissible, and that they will be financially supported along with you. For more guidance on the application process, see Subsection a, below.

Children who are over age 21, or are married, will not be able to immigrate to the United States at the same time as you. As a U.S. citizen, your spouse may file visa petitions for them, but they will be subject to quotas and waiting periods. This book does not cover how to file these visa petitions.

### a. K-4 Visa Applications for Children

This section contains a brief overview of the procedures for immigrating children, but complete details (especially line-by-line instructions on filing out the forms) are outside the scope of this book. Once you have filled out all the paperwork described in this book, you will have a good basis of knowledge with which to fill out the forms for your children, or you may be more comfortable getting a lawyer.

To start the process, your U.S. citizen spouse will need to name the children on the I-129F filed in the United States. Your spouse should also fill out separate Forms I-130 for each child. Although these Forms I-130 do not need to be submitted at the same time as yours, it's a good idea to do so, particularly because the waiting periods for these approvals can be years in length. And, having an approved I-130 is necessary before you file your

children's applications for green cards in the United States. (Like you, they will each need to apply for a green card, through a process called Adjustment of Status. They cannot be included in your application at this stage.)

When filling out Forms I-130 for your children, note that they do not need to fill out form G-325A (as you do), nor do they need to have their photos included in the visa petition. Include copies of your and your spouse's marriage certificates to show the family relationships. At the step two stage of mailing forms back to the consulate, you will have to send separate DS forms for each child. The consulate should send you a package of forms for each child. If it doesn't, either ask for these forms or simply make photocopies of the forms sent to you.

When it is time for your consular interview, the children will have to submit all the same types of forms and documents as you, except they can simply submit photocopies of the Affidavit of Support (Form I-134). Of course, you will want to make sure that their names are listed on your Form I-134, and that the income and assets shown are sufficient to cover each child. If your child is under the age of 16, he or she will not need to submit a police certificate.

You can expect to attend your K-3/K-4 visa interview together. The children will probably not have to answer more than one or two questions.

### **b. Children About to Turn 21 Could Lose Out**

If there is a chance that your child will turn 21 before he or she actually claims a K-4 visa, watch out! The minute a child hits his or her 21st birthday, the child will no longer be eligible for the K-4 visa. This problem is known as "aging out."

Here is how to avoid having your child miss his/her chance to get a K-4 visa at the same time as you get your K-3. Write, "PLEASE EXPEDITE, AGE-OUT MM/DD/YY" (the exact date your child will turn 21) in red ink on the top of any cover letters and primary applications. If you have any personal contact

with a consular officer during the application process, be sure to bring up the age-out issue.

The consulate should be able to schedule your K-3 visa earlier when they learn of the age-out issue. If you don't hear from them within eight weeks of submitting your materials to the NVC, start writing reminder letters or visit the consulate in person.

Don't make the mistake of thinking that you have solved the problem by simply getting your child's K-4 visa before your child's 21st birthday. Your child has to use that visa to enter the United States before he or she turns 21. Until your child shows up at the border, the process is not complete, and the border guard can keep your child out because, having turned 21, your child no longer qualifies for the visa he or she was given.

## **3. Your Pets**

Good news for your dog and cat, who may not have learned to sign their names yet—they won't need a visa. Bringing pets into the United States is not an immigration law matter. But before bringing any pets to the United States, you will need to check into U.S. customs restrictions. In general, pets will be admitted if they are in good health and have had all the proper vaccinations. There are some restrictions, however. For example, monkeys aren't allowed into the United States at all. Check with your local U.S. consulate for details, or read more on the Web at [www.customs.gov](http://www.customs.gov) (on the home page, click "Travel"; then click "leaving and arriving in the United States"; then look on the Publications list and click "Pets and Wildlife").



For what to do after you have obtained your visa and entered the United States, see Chapter 16. ■



## Overseas Spouses of Lawful Permanent Residents

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A marriage-based visa or green card is available to anyone who is living overseas, married to a U.S. permanent resident, and whose marriage is real and legally valid. In addition, they must not be inadmissible to the United States for any of the reasons covered in Chapter 2, Section A. To confirm that you are eligible for a marriage-based green card, review Chapter 2, Section B.

Unfortunately, there are many people like yourself—known as a preference relative—but few available visas year by year. After your spouse files an application to start the process, you will become one of many prospective immigrants on a long and somewhat mysterious waiting list. This wait will add, on average, three to five years to the one-year (or more) application process. You will most likely have to wait outside the United States.

The only good thing about this long wait is that, when you ultimately are allowed to enter the United States, your residence status will be permanent. Here's why: Immigrants who enter the United States before completing two years of marriage are given only conditional residence. USCIS puts their marriage through a two-year testing period to make sure the marriage is not a sham, and makes a final decision on the green card (granting permanent residency) only after those two years are up. Since it is very unlikely that you, as the spouse of a permanent resident, will get through the application and waiting within two years of your marriage, you won't have to go through this two-year testing period.

Your immigration application will be handled initially by USCIS offices in the United States and will be transferred to a U.S. consulate in your home country. We'll explain the various steps involved in this application process in this chapter.



**If your permanent resident spouse has made his or her home outside the United States, his or her permanent residence may now be lost.** Permanent residents are expected to make their home in the United States. Any absence longer than six months will raise questions. Before you rely on your permanent resident spouse to petition for you, make sure this isn't a problem. See Chapter 16 for more on how permanent residents can lose their residency this way.

## A. The Immigrant Visa Application Process

If you are reading this section, it means that you have determined that you are eligible for a marriage-based visa and are ready to find out exactly how to get it. But first, a warning: This application process is a bit like harnessing yourself to a turtle. It's going to move slowly, and to succeed you'll have to hang on for the whole bumpy ride. This chapter gives you a map for that ride and offers a few shortcuts.

Obtaining an immigrant visa and green card through a permanent resident spouse involves five major steps:

- Step 1:** Your spouse submits a visa petition to USCIS.
- Step 2:** Your file is transferred to the National Visa Center (NVC) in the United States and you wait for a visa to become available to you.
- Step 3:** When a visa becomes available, the NVC sends you forms to fill out and send to your local U.S. consulate.
- Step 4:** You fill out some more forms and present them at an interview at a U.S. consulate in your home country, where you receive your immigrant visa.
- Step 5:** You present your visa at a U.S. border, where it is examined and you are approved and stamped for U.S. residency.

In addition to the steps above, a few couples (or more likely the U.S.-based spouse) are required to attend a "fraud interview" if the government has doubts about their marriage being the real thing. This could happen either as part of Step One or after Step Four, above.

Now you may have a clearer picture of why your application process will take so long. The total time usually includes:

- at least six months for approval of the initial visa petition (Step One)
- another three to five years before a visa is available to you (Step Two)
- another month to receive the follow-up paperwork (Step Three) from the National Visa Center (NVC)

- another three months until the consulate in your home country calls you for your interview (Step Three), and
- no more than six months before you take your immigrant visa in hand, to take Step Five and enter the United States.

These time periods are educated guesses, based on averages over the last few years. Your application could go faster or slower, depending on a variety of factors including the current demand for visas, the complexities of your own case, and the efficiency and workload of the U.S. consulate in your country. (These issues and hassles are discussed in more detail in Chapter 15, Dealing With Bureaucrats, Delays, and Denials.)



**The urgency you feel to get settled into your new home is not shared by the government officials who'll be dealing with your application.**

They've long since gotten used to the fact that they have thousands of applications to get through. Once in a while, a miracle will happen; but usually your green card application will take longer than you ever imagined.

## 1. Step One: The I-130 Visa Petition

Your U.S. permanent resident spouse will initiate the green card application process by filing a visa petition—Form I-130, Petition for Alien Relative and attached documents—with a USCIS Service Center. This petition asks USCIS to acknowledge your marriage and allow you to go forward with green card processing.

Approval of the visa petition does not mean you're guaranteed approval of your green card, however. Like every immigrant, you will eventually have to file your own, extensive portion of the immigrant visa and green card application. At that time, the consulate will take a hard look at your financial situation and other factors that might disqualify you from entering the United States.

### a. Line-by-Line Instructions for Visa Petition Forms

This section will give you precise instructions for filling out the forms that are listed on the visa

petition checklist in Subsection e, below. Before proceeding, take a look at the general instructions on printing and filling out USCIS forms in Chapter 4. Also, as you read these instructions, you should have a copy of the appropriate form in hand. In Subsection b, below, we advise you on how to gather the supporting documentary proof and other items required for Form I-130, such as photos and filing fees.

#### i. Form I-130

Form I-130 is normally printed out two-sided, head to foot, on pastel yellow paper. The first thing to notice about Form I-130 is that it runs in two columns (except for the tiny Part A near the top). The left column, or Part B, asks for information about the petitioner—that's your U.S. permanent resident spouse. Don't be thrown off by the fact that the form addresses your spouse as "you"—after all, it's your spouse who fills out this form. The right column, Part C, asks for information about you, referred to as the relative. Now for the questions.



Form I-130 is available on the CD-ROM at the back of this book and in Appendix G. Below is a picture of the first page of this form.

#### Part A

**Question 1:** Check the first box, Husband/Wife.

**Question 2:** This question, about whether you're related by adoption, is meant for people who use this form to apply for an adopted child. We're assuming you can answer this question "No."

**Question 3:** If the petitioning spouse gained permanent residence through adoption, check **Yes**. But no matter which box you check, it won't affect the application, since this question is mainly directed at people immigrating through parent/child relationships—something not covered in this book.

#### Part B

**Question 1:** The petitioning spouse must enter his/her last name (surname) in capital letters, but the first and middle name in small letters. For example, Samuel Lawrence Cole would write COLE, Samuel Lawrence. Your spouse should use his/her current

married name if it was changed at the time of your marriage. If you are unclear on which name to use, see “What’s Your Name?” in Chapter 4, Section B.

**Questions 2-5:** Self-explanatory.

**Question 6:** This refers only to the petitioning spouse's most recent marital status. He or she should check "married," even if there was a previous divorce.

**Question 7:** See “What’s Your Name?” in Chapter 4 Section B.

**Question 8:** Self-explanatory.

**Question 9:** Self-explanatory.

**Question 10:** Enter the eight-digit A-number found on the U.S. permanent resident's green card.

**Question 11:** Self-explanatory.

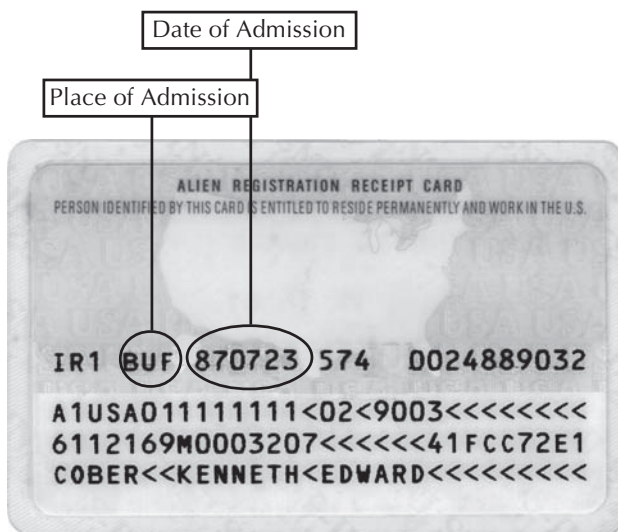
**Question 12:** There's a reason for this question: if the petitioning spouse's prior marriage(s) ended after your present marriage began, yours is not a lawful marriage. If your petitioning spouse has just discovered that the divorce wasn't final when your marriage took place, it may not be necessary to run to a lawyer. Assuming that the divorce has since become final, you can simply correct the problem by remarrying. (If there was fraud involved in your hasty marriage, consult a lawyer.)

**Question 13:** N/A, since your spouse is not yet a citizen.

**Question 14a:** The information requested here is usually on the back of the older style green cards

and on the front of the newer ones. (See the illustration below.) The date on the older cards usually starts with the year, so that Dec. 3, 1998 would be 981203. The city is in code on both types of cards: for example, SFR is San Francisco, BUF is Buffalo, and LIN is the Service Center in Lincoln, Nebraska. (On the sample cards below “BUF” appears on the older card and “LIN” on the newer one. This is because the applicant became a conditional resident first, in Buffalo; then two years later received permanent residence from the Lincoln, Nebraska, Service Center.) Class of Admission asks for the type of visa or remedy through which the person got permanent residence, such as a Fourth Preference visa or political asylum.

**Question 14b:** A petitioning spouse who immigrated through marriage cannot petition for a new spouse for five years, unless the first spouse died or your spouse can prove by “clear and convincing evidence” that the previous marriage was bona fide (real). USCIS is concerned that the first marriage was just a sham, with the long-term goal of getting both of you into the United States by piggybacking on a sham marriage. To prove that the first marriage was bona fide, your spouse should enclose documentary evidence showing that he or she and his or her former spouse shared a life, such as shared rent receipts, club memberships, children’s birth certificates, utility



### Old-Style Green Card (Back)



### New-Style Green Card (Front)

## Petition for Alien Relative

Additional pages not shown.



bills, and insurance agreements. Will USCIS find this evidence to be “clear and convincing”? Unfortunately, this legal standard is easy to state but hard to pin down or apply. The bottom line is that your spouse has a lot of proving to do to persuade a suspicious government official that his or her previous marriage was bona fide.

### **Part C: (Now referring to you, the immigrant beneficiary)**

**Question 1:** Your current name, with your last name (surname) in capital letters. If you have any doubt about what name to use, see “What’s Your Name?” in Chapter 4, Section B.

**Question 2:** Self-explanatory.

**Questions 3-5:** Self-explanatory.

**Question 6:** Your current marital status only.

**Question 7:** See “What’s Your Name?” in Chapter 4, Section B.

**Question 8:** Self-explanatory.

**Question 9:** If you don’t have a Social Security number, just write N/A. You probably wouldn’t have a Social Security number unless you have lived in the United States and had a work permit, a visa allowing you to work, or U.S. residence.

**Question 10:** The Alien Registration Number is an eight-digit number following a letter A that USCIS will assign to you. You won’t have one yet unless you’ve previously applied for permanent or, in some cases, temporary residence; or been in deportation/removal proceedings. (Of course, if your previous application was denied because you were inadmissible or you lied on that application, you should call a lawyer before going any farther.)

**Questions 11 and 12:** See advice to Questions 11 and 12 in Part B, above.

**Question 13:** Self-explanatory.

**Question 14:** Enter N/A here, since you’re living outside the United States.

**Question 15:** State your employer’s name and address.

**Question 16:** If you’ve been placed in Immigration Court proceedings, see a lawyer, particularly if you lost.

**Question 17:** This is the continuation of Part C, so all questions still refer to you, the immigrant beneficiary. Since your spouse is already covered in this application, just list your children, if any. This means all your children, including any by previous relationships.

**Question 18:** Self-explanatory. Hopefully, your address will be the same as that of your spouse, or USCIS may raise questions.

**Question 19:** Enter N/A if you’re living in the United States. This is self-explanatory if you’re living overseas.

**Question 20:** If your native language uses a non-Roman script (for example, Russian, Chinese, or Arabic), you’ll need to write your name and address in that script.

**Question 21:** Self-explanatory.

**Question 22:** You need not fill out Question 22 if you are overseas.

### **Part D: Other Information.**

Now we’re back to questions to be answered by the petitioning spouse.

**Question 1:** This refers to other petitions being submitted simultaneously, (for example, for your children from this or other marriages), so that USCIS can process the petitions together. Enter the children’s names here.

**Question 2:** This refers to previous filed petitions—which may include petitions for other spouses. As you might imagine, if the petitioning spouse has a history of short marriages to people whom he/she then helped get green cards, USCIS may initiate a marriage fraud investigation, and you should see a lawyer.

**Signature Line:** The petitioning spouse signs here.

### **Signature of Person Preparing Form If Other Than**

**Above.** If you or your spouse is preparing your own application, write N/A here. A little typing assistance or advice from a friend doesn’t count—the only people who need to complete this line are lawyers or agencies who fill out these forms on others’ behalf.



## ii. Form G-325A

The information you and your spouse supply on this form will allow the U.S. government to check your background. Most of the form is self-explanatory. If you really can't remember or are unable to find out an exact date, enter whatever you can remember, such as the year. Alternately, you can simply say "unknown," but if you overuse the "unknowns" USCIS may return your entire application for another try. Since the questions aren't numbered, we refer to them by the approximate line.



Form G-325A is available on the CD-ROM at the back of this book and in Appendix G. Below is a picture of this form.

This form is single-sided. You and your spouse each fill one out. The one that you fill out is meant to be submitted as four exact copies, in white, pastel green, pastel pink, and pastel blue. (You'll have to prepare it and mail it to your spouse, not directly to



### California

State Tree: Redwood

Redwoods are the world's largest living thing

USCIS.) However, your spouse only needs to submit the top, white page.

**Line 1 (Family Name, etc.):** Self-explanatory.

**Line 2 (Father/Mother):** Self-explanatory.

**Line 3 (Husband or Wife):** Self-explanatory.

**Line 4 (Former Husbands or Wives):** Self-explanatory.

**Line 6 (Applicant's Residence Last Five Years):** Be careful here. These need to be in reverse chronological order, starting with your most recent address and working your way down the last five years. For example, if you now live in Beijing but lived in Xian before, your Beijing address would go on the top line. Practice making this list on another sheet of paper before you enter the information here.

**Line 7 (Applicant's Last Address Outside the United States of More Than One Year):** This may overlap with one of the addresses in Line 6—that's okay.

**Line 8 (Applicant's Employment Last Five Years):** Again, be careful to put this in reverse chronological order. If you've been unemployed, self-employed, or were a housewife or house-husband, say so here—in other words, try not to leave anything blank.

**Line 9 (Show below last occupation abroad if not listed above):** This question asks you to list your last overseas job—but only if you didn't already list it on Line 8. People tend to overlook this line, because it's so small—make sure you don't accidentally jump over it.

**Line 10 (This Form Is Submitted in Connection With Application For):** On your spouse's form, he or she should check "other" and write "in support of spouse's I-130." On your form, you should check "status as permanent resident."

**Line 11 (If your native alphabet uses non-Roman letters):** Self-explanatory.

**Line 12 (The large box):** Self-explanatory.

## b. Documents to Have on Hand for Visa Petition

The I-130 visa petition asks you to submit supporting documents along with the form. Among these are the following, which are listed on the Checklist in Subsection e:



- **Proof of the U.S. Permanent Resident Status of Your Petitioning Spouse.** To prove that he or she is a permanent resident, your spouse should make a copy of his or her green card (front and back). If your spouse hasn't yet been issued a green card, a copy of the stamp placed in his or her passport indicating permanent residence will be sufficient.
- **Photos.** For the USCIS instructions on photos (what size and how to pose) see Form M-378, in Appendix E. However, USCIS regulations permit you to submit a photo that doesn't completely follow the instructions if you live in a country where such photographs are unavailable or cost prohibitive.
- **Fees.** The current fee for an I-130 visa petition is \$185. However, these fees go up fairly regularly, so double check this on the USCIS website at [www.uscis.gov](http://www.uscis.gov), or by calling USCIS at 800-375-5283.

### c. Where to Send Visa Petition

After your spouse has prepared and assembled all the forms and other items from the checklist below, (including the G-325A and photos that you'll have to send him or her) your spouse should make photocopies for your records. Then your spouse must send the packet to the USCIS Service Center for the region where he or she lives. Certified mail with a return receipt is the safest way to send anything to USCIS. The Service Center's address is in Appendix C. You can double check this information on the USCIS website at [www.uscis.gov/graphics/fieldoffices/statemap.htm](http://www.uscis.gov/graphics/fieldoffices/statemap.htm).

If your spouse lives outside the United States or its territories, he or she should contact the nearest U.S. consulate about where to send the visa petition.

### d. What Happens After Sending in the Form I-130 Visa Petition

A few weeks after your spouse sends in your visa petition, he or she should get a receipt notice from

the USCIS Service Center. The receipt notice will say how long the application is likely to remain in processing, which is usually at least three months. A sample receipt notice is included below.

Until the completion time predicted by the receipt notice, USCIS will ignore any letters from you or your spouse asking about the progress of your visa petition. These Service Centers seem like walled fortresses—you can't visit them, and it's almost impossible to talk to a live person there. (See Chapter 15 for what to do if you don't get a timely answer from the USCIS Service Center.) If USCIS needs additional documentation to complete your application, they will send your spouse a letter asking for it.

Eventually, your spouse will receive an approval or a denial of the visa petition.

#### i. If the Visa Petition Is Denied

If the visa petition is denied, the fastest thing to do is to fix the problem and try again. For example, if the denial was because your petitioning spouse did not appear to be actually divorced from his or her previous spouse, your spouse will need to see a lawyer and obtain new and better documentation showing that there had been a final divorce. Then he or she can file a new visa petition.

#### ii. If the Visa Petition Is Approved

When your visa petition is approved, your spouse will receive a notice from the USCIS Service Center. An example of a visa petition approval notice is shown below. As you can see, it's nothing fancy. But it is an important document. Make a few photocopies of it and store these and the original in safe places. Note the "Priority Date" listed in the box of that name—that will become very important in determining your place on the waiting list, as discussed in Section 2, below.

At the same time that the USCIS Service Center notifies your spouse of the approval of your visa petition, it will forward your case to the National Visa Center (NVC) in New Hampshire. This office will then take over and maintain your file through Step Two.



## Sample Receipt of Application Notice

U.S. Department of Justice  
Immigration and Naturalization Service

## Notice of Action



RECEIPT NUMBER WAC-95-132-55555		CASE TYPE I130 IMMIGRANT PETITION FOR RELATIVE, FIANCE (E), OR ORPHAN
RECEIPT DATE April 13, 1995	PRIORITY DATE	PETITIONER A99 999 999 AGUILAR, JOSE
NOTICE DATE April 13, 1995	PAGE 1 of 1	BENEFICIARY AGUILAR, CLARITA
AMY F. LEE, ATTORNEY 555 PARKER ST. BERKELEY CA 94710		Notice Type: Receipt Notice  Amount received: \$ 80.00  Section: Husband or wife of permanent resident, 203(a)(2)(A) INA

The above application or petition has been received. It usually takes 89 to 90 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect. Our customer service phone number is listed below:

We will send you a written notice as soon as we make a decision on this case. You can also use the phone number below to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).

Please see the additional information on the back. You will be notified separately about any other cases you filed.  
IMMIGRATION & NATURALIZATION SERVICE  
WESTERN SERVICE CENTER  
P. O. BOX 30111  
LAGUNA NIGUEL CA 92607-0111  
Customer Service Telephone: (714) 643-4880



RECEIVED APR 17 1995



## Sample Visa Petition Approval Notice

U.S. Department of Justice  
Immigration and Naturalization Service

## Notice of Action

THE UNITED STATES OF AMERICA		
RECEIPT NUMBER WAC-95-132-55555		CASE TYPE I130 / IMMIGRANT PETITION FOR RELATIVE, FIANCE(E), OR ORPHAN
RECEIPT DATE April 13, 1995	PRIORITY DATE April 11, 1995	PETITIONER A99 999 999 AGUILAR, JOSE
NOTICE DATE June 26, 1995	PAGE 1 of 1	BENEFICIARY AGUILAR, CLARITA
AMY F. LEE, ATTORNEY 555 PARKER ST. BERKELEY CA 94710		Notice Type: Approval Notice Section: Husband or wife of permanent resident, 203(a)(2)(A) INA
<p>The above petition has been approved. We have sent the original visa petition to the <b>Department of State National Visa Center (NVC), 32 Rochester Avenue, Portsmouth, NH 03801-2909</b>. NVC processes all approved immigrant visa petitions that need consular action. It also determines which consular post is the appropriate consulate to complete visa processing. NVC will then forward the approved petition to that consulate.</p> <p>This completes all INS action on this petition. If you have any questions about visa issuance, please contact the NVC directly. The telephone number to NVC is (603) 334-0700.</p> <p>The NVC will contact the person for whom you are petitioning concerning further immigrant visa processing steps.</p> <p>THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.</p>		
<p>Please see the additional information on the back. You will be notified separately about any other cases you filed.</p> <p>IMMIGRATION &amp; NATURALIZATION SERVICE WESTERN SERVICE CENTER P. O. BOX 30111 LAGUNA NIGUEL CA 92607-0111 Customer Service Telephone: (714) 643-4880</p>		



RECEIVED JUL 06 1995

### e. Using the Checklist for Step One, Visa Petition

When you put it all together, the visa petition that your spouse files will include three forms and some supporting documents, photos, and a fee, as detailed on the following checklist. As you fill out and prepare your paperwork, mark off the items that you've found or finished with on your checklist. This will be the best way to make sure you haven't forgotten anything.



The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

## 2. Step Two: The Waiting Period

Visa waiting periods are not set periods of time. Some attorneys tell their clients, "It will probably be two years"—then when two years go by and the visa hasn't come through, the clients worry that something has gone wrong. The truth is that waiting periods are only partly predictable. They depend on visa supply and demand, combined with monthly decisions by the U.S. government. You won't know for sure how long you'll have to wait until your wait is almost over. This section will help you to understand the mechanics of this wait and how to deal with it.

### a. Preference Categories

As the spouse of a lawful permanent resident, you're known as a "preference relative." The U.S. government ranks preference relatives, usually giving visas quicker to those at the top. As you'll see, you are in the second category down ("2A"). This means that the U.S. government has allotted a higher priority to your visa than to those of the people farther down the list. That may be small comfort as the months and years go by, however. Here is how the preferences are arranged:

#### Checklist for Visa Petition

- ☐ Form I-130 (see line-by-line instructions in Subsection a, above)
- ☐ Documents to accompany Form I-130:
  - ☐ Proof of the U.S. permanent resident status of your petitioning spouse (see Subsection b, above)
  - ☐ Your marriage certificate (see Chapter 4, Section C, for how to obtain such documents)
  - ☐ Proof of termination of all previous marriages, yours or your spouse's, such as certificates of death, divorce, or annulment
  - ☐ One color photo of you (see Subsection b, above)
  - ☐ One color photo of your spouse
  - ☐ Fees: \$\_\_\_\_\_. (See Subsection b, above)
- ☐ Form G-325A, Biographic Information, filled out by you (see line-by-line instructions in Subsection a, above)
- ☐ Form G-325A, Biographic Information, filled out by your spouse (see line-by-line instructions in Subsection a, above).



- **First Preference:** The unmarried sons or daughters of a U.S. citizen who are over 21 and are therefore no longer considered children. (If they were still children, they could qualify as immediate relatives, who are immediately eligible for visas.)
- **Second Preference:** The Second Preference category, which is where you fit, is actually made up of two subcategories, each with different waiting periods. In subcategory 2A are spouses or unmarried sons or daughters under age 21 of a permanent resident (green card holder). In subcategory 2B are the unmarried sons and daughters *over* age 21 of a permanent resident (they usually wait longer than 2As).
- **Third Preference:** The married sons or daughters, any age, of a U.S. citizen.
- **Fourth Preference:** The brothers or sisters of a U.S. citizen. The citizen must be age 21 or older.

## b. How Visas Are Allotted Year by Year

Each year, the U.S. government allots a certain number of immigrant visas in each preference category. For purposes of visa allocation, the government follows its fiscal year, which starts and ends in October. This might affect you if the government runs out of visas for your category before October. You'll know at that point that you have no chance of advancing on the waiting list until the "new year" begins October 1.

Currently, the total worldwide numbers are:

- **First Preference:** 23,400, plus any visas not used for Fourth Preference
- **Second Preference:** 114,200, with 77% of these going to category 2A, 23% to category 2B
- **Third Preference:** 23,400, plus any not used for First and Second Preference
- **Fourth Preference:** 65,000 plus any not used for the first three preferences.

This may sound like a lot of visas, but far more people want immigrant visas than can get them every year. The government gives out visas month

by month, making sure never to go over the annual limit.

There are also limits on the number of visas allowed for any one country. No more than 7% of the total visas each year can go to any one country, and often the percentage turns out to be less.

There are more complexities to the allocation and numbers of these visas, but a full understanding of these numbers won't help you speed up your waiting time. The important thing to know is how to chart your own place on the visa waiting list.

## c. How to Chart Your Place on the Waiting List

It would be nice if you could just call the government and ask how long you have to wait for your green card. No such luck. Instead, the State Department publishes a monthly *Visa Bulletin*, the one source of information on visa waiting periods. The *Visa Bulletin* is accessible online at [http://travel.state.gov/visa\\_bulletin.html](http://travel.state.gov/visa_bulletin.html). The same information is available by phone at 202-663-1541, but you have to be quick with your pencil and paper because they talk fast.

The *Visa Bulletin* comes out monthly, around the middle of the month, but not on any particular day. Below is a sample of what a family-based chart in the *Visa Bulletin* looks like.

Although it's confusing at first glance, you will be able to make your way through this chart. Here's how:

1. Locate your preference category (2A) in the left column.
2. Locate your country across the top. China, India, Mexico, and the Philippines often have their own columns because of the large number of applicants—as a result, people from these countries wait longer than others. All other countries are included in the second column called All Chargeability Areas Except Those Listed.
3. Draw a line across from your preference category (2A) and down from your country of origin. Where the two lines cross is what is called the Visa Cutoff Date—the key date which

Cutoff Dates for February 2004				
Family	All Chargeability Areas Except Those Listed	India	Mexico	Philippines
1st	08SEP00	08SEP00	15OCT94	01JUN90
2A	01MAR99	01MAR99	01AUG96	01MAR99
2B	08MAY95	08MAY95	15DEC91	08MAY95
3rd	15SEP97	15SEP97	08JAN95	15JAN90
4th	01APR92	22DEC90	01APR92	22JAN82

you will compare with your own Priority Date to chart your progress.

Every prospective immigrant has his or her own Priority Date—the date that USCIS first received their I-130. Your Priority Date is on the approval notice you received after the initial approval of your Form I-130 visa petition. Prospective immigrants whose Priority Dates are at or earlier than the Cutoff Date listed in that month's bulletin will become eligible for visas or green cards. The earlier your Priority Date, the better off you are, because it means you are in line ahead of other applicants. But as you can see, the current Cutoff Date doesn't tell you how long it will be before your own visa or green card is issued.

Look again at the example of the approval notice in Subsection 1d, above. The Priority Date is in the box with the date of April 11, 1995. The following examples will help you understand how to read the *Visa Bulletin* chart.

**EXAMPLE 1:** Toshiko is a citizen of Japan, married to a U.S. permanent resident.

Toshiko's husband submitted an I-130 for her several years ago and she received a Priority Date of February 12, 1999. What does Toshiko learn by looking at the *Visa Bulletin* chart? After locating the box for Japan (under All Chargeability Areas) in category 2A, she sees that the

Priority Date that is now current is March 1, 1999.

That means that Toshiko, with her Priority Date of February 12, 1999, is now eligible for a visa. If you're confused by the fact that Toshiko's Priority Date isn't an exact match with the *Visa Bulletin* Cutoff Date, look at it this way. Earlier is always better. Toshiko's husband actually submitted her I-130 a few weeks before some other people who also became current under this month's *Visa Bulletin*. If this process were like taking a number at the bakery counter, she would have become eligible for her visa (or get to choose her donut) a little before the people with March 1 Priority Dates. But the *Visa Bulletin* jumps by days and weeks worth of Priority Dates every month, so people get lumped into larger groups. Anyone with a Priority Date of March 1, 1999 or earlier is therefore considered to have become visa eligible, or "current."

**EXAMPLE 2:** Yumiko is also a citizen of Japan, who got married to a U.S. permanent resident more recently than Toshiko in the example above. Yumiko's husband submitted her I-130 on August 1, 2002, so that is now her Priority Date.

What does Yumiko learn by looking at the *Visa Bulletin* chart? She must look at the same box as Toshiko did, to see that the current Cutoff Date is March 1, 1999. But with Yumiko's Priority Date of August 1, 2002 she is certainly not current, and not yet eligible for a visa. It's safe to say there are a number of people in line ahead of her—just imagine how many spouses might have applied between 1999 and 2002! How long Yumiko might have to wait is discussed further in Subsection d, below, "Figuring How Long You Will Wait."

If you follow the *Visa Bulletin* chart month by month, you might notice a couple of odd things. Sometimes the government gets backed up with visa applications and the Cutoff Dates just don't change. In the example above, it could be that Toshiko's Priority Date actually became current a month earlier, in January 2004—but she forgot to check it then, and the number didn't change. Sometimes the Cutoff Dates get stuck for months at a time, while the government deals with a backlog of visa applications. If the government hits a huge logjam, you may even see the Cutoff Dates go backwards.

Another odd thing you might see is a box that contains the letter C or U, instead of a date. The letter C (for "current") means there are plenty of visas in that category and no one has to wait. It's as if everyone's Priority Date suddenly were current. The letter U (for "unavailable") is the opposite; it means that all the visas have been used up for that year. If, for example, this were February 2004, and Yumiko saw a U in her category 2A box, she'd know she could forget about getting closer to a visa until October 2004 (when the new year starts in the visa allocation process).

#### **d. Figuring How Long You Will Wait**

To roughly determine how long you will have to wait for a visa, you can subtract the Cutoff Date on the current month's *Visa Bulletin* chart from today's date. So, for the Japan 2A category used in the example above, you would subtract 1999 from 2004.

The waiting period for a visa would be approximately five years. (Or at least it was for people who applied in 1999.) There is no exact science to computing your probable wait.

#### **e. How to Deal With the Long Wait**

You will probably feel like nothing at all is happening during the years that you wait for your visa to become available. But in fact, the Priority Dates will be inching forward, and there are steps that you should be taking to make sure that you can claim your visa as soon as it becomes available.

#### **i. Organizing Your Papers and Checking the *Visa Bulletin***

After your U.S. permanent resident spouse files a visa petition for you, you will get your own approval notice; looking much like the one shown in Subsection 1d, above. The approval notice will show your Priority Date. Take careful note of the date and keep the notice in a safe place. Look in the current *Visa Bulletin* to get an idea of how long your wait will be. If your wait looks to be three years, for example, for the first year and a half you probably don't need to check the *Visa Bulletin* more than every six months. Then start checking the bulletin every three months after that. As your Priority Date gets close to being current, check it monthly, so you can find out as soon as you are current and can make sure that the U.S. government realizes that you are current and still alive and interested, as explained below.



**You can ask to have the *Visa Bulletin* sent to you monthly, by email.**

This is a great way to make sure you don't forget to check how your Priority Date is advancing. Complete instructions for how to subscribe to this service can be found toward the bottom of any *Visa Bulletin*.

#### **ii. If You Change Addresses**

Don't rely on the U.S. government to tell you when your Priority Date is current—the National Visa

Center makes an effort, but some files will get buried in the shuffle. However, you're guaranteed not to hear from them if they don't know where to find you. Also, under rare circumstances, such as a major change in the U.S. immigration laws, the government may send out mass mailings that you also wouldn't want to miss.

If either you or your petitioning spouse change addresses, the place to contact is the National Visa Center (NVC), which keeps your case file until your Priority Date is close to being current. You can advise the NVC of your new address by writing to them at The National Visa Center, 32 Rochester Avenue, Portsmouth NH 03801-2909. You can also send them a fax at 603-334-0759. Be sure to include your case number from the USCIS approval notice.

### iii. What to Do When Your Priority Date Is Current

One day, your Priority Date will become current—in other words, you'll finally see the exact date of your original application, or a later date, on the *Visa Bulletin* chart. Then you'll know that it's time for you to move forward in the process of getting your visa or green card.

When you see that your Priority Date is current, don't wait for the government to call you. If you don't hear from them within a few weeks, contact the National Visa Center (see Subsection ii above for contact information) and ask them to send you the appropriate paperwork.

### iv. What Happens If No One Notices Your Current Priority Date

Some immigrants forget to check the *Visa Bulletin*, and their Priority Date becomes current without their noticing. Sometimes, the NVC has tried to notify them, but has only an old address. Or, the NVC may have failed to keep track of the person's file. These problems can delay or destroy a person's hopes of immigrating.

You have one year after your Priority Date becomes current to pursue your visa or green card. If you do not, the government assumes you have abandoned it—and will give your visa to the next person in line. You may have an argument for getting the visa back if the government completely failed to

contact you, but it's better to avoid such situations altogether. Keep track of your own Priority Date and follow the procedures in Subsection iii, above, as soon as your date, or a later date, is listed in the *Visa Bulletin*.

### v. Some Immigrants Can Wait in the United States

If you have already waited at least three years without your Priority Date becoming current, there is a slim chance you may be allowed to continue your wait in the United States. Congress made this possible for some people in December 2000 by creating a new visa, called the "V visa." The V visa allows waiting immigrants to live and work legally in the United States until their Priority Date comes up in the *Visa Bulletin* and they can finish their application for a green card. However, to qualify for a V visa, your initial visa petition (Form I-130) would have to have been submitted to the INS by December 21, 2000.

If you think you might qualify for a V visa, talk to your local U.S. consulate and check the USCIS website at [www.uscis.gov](http://www.uscis.gov).

### f. How to Get Your Children Onto the Waiting List

Like other immigrants, you can bring certain family members along when you come to the United States. Your children who are unmarried and under age 21 qualify as what are called derivative beneficiaries. See Chapter 2, Section B, to review who counts as a child. As a practical matter, this means that your children won't need a separate visa petition to start off the process. They will share your Priority Date and place on the waiting list. (Eventually, however, they will have to fill out some forms of their own.)

As you'll see in Section B, below, children can lose their derivative beneficiary status. For example, if your spouse becomes a U.S. citizen, or if children turn 21 or get married, the children would no longer be considered derivative beneficiaries and would have to find another way to immigrate. Section B, below, tells you which of these situations can be cured and how to cure them.

Be aware that if your derivative beneficiary children have children of their own, those children (your grandchildren) will not be considered your derivative beneficiaries. The law says that no one can be the derivative of someone who is already a derivative beneficiary. In this circumstance, the grandchildren would have to stay behind for at least a few years—a heartbreaking situation for some families. Unfortunately, there are no separate visas for grandchildren.

### g. Changing Visa Preference Categories

It is possible for people to move into a different preference category, which will speed up or delay their waiting time. For example, you would get a visa quicker—by moving to the immediate relative category—if your spouse became a U.S. citizen. Or, life changes could push you out of your visa category and into a lower one or out of the race altogether. This section explains the most typical situations affecting married couples and shows you how to keep or improve on your visa category. For situations affecting only your children, see Section B, below.

### i. If a Permanent Resident Petitioner Becomes a Citizen

If your spouse becomes a citizen, it is good news for you. You go from category 2A straight to immediate relative. This means that you jump off the waiting list and immediately move forward with your visa processing.

If your permanent resident spouse qualifies for U.S. citizenship, he or she would be wise to apply as soon as possible. Most permanent residents can apply within five years of receiving their residence (this changes to four years if your spouse received residency as a refugee or through political asylum). They must also be of good moral character, meet certain U.S. residency requirements, and be able to pass a test on the English language and U.S. history and government. (If you know that your spouse is going to become a U.S. citizen very soon, read Chapter 7 covering overseas spouses of U.S. citizens.)

If your petitioner becomes a citizen, advise the government and send them a copy of your spouse's citizenship certificate and your I-130 approval notice. The National Visa Center (NVC) will upgrade your status to immediate relative. The sample letter below shows how to explain this fortunate turn of events.

### Letter Requesting Upgrade to Immediate Relative

123 Salmon Way  
Seattle, WA 98105  
(206) 555-1212

April 20, 200x

National Visa Center  
32 Rochester Avenue  
Portsmouth, NH 03801-2909

RE: Petitioner: Sam Washington  
Beneficiary: Marta Moscow  
Preference Category: 2A, Spouse of LPR  
Case Number:

Dear Sir/Madam:

I am the petitioner in the above case. I recently became a U.S. citizen. A copy of my citizenship certificate is enclosed. Please upgrade my wife, Marta Moscow, from category 2A to immediate relative, and proceed with consular processing. Thank you.

Very truly yours,  
*Sam Washington*  
Sam Washington

Encl: Copy of U.S. citizenship certificate



For more on the eligibility and procedural requirements for obtaining U.S. citizenship, see the USCIS website at [www.uscis.gov](http://www.uscis.gov) or [Becoming a United States Citizen: A Guide to the Law, Exam and Interview](#), by Ilona Bray (Nolo).





**If your spouse becomes a citizen and you have children who will be immigrating with you, be sure to read Section B, below.** For certain children, immigrating may now become more difficult.

## ii. If the Petitioner and Beneficiary Divorce

If you and your spouse get divorced before you apply for your immigrant visa or green card, you are out of luck. The visa petition is cancelled and you and your derivative beneficiaries lose your green card eligibility.

There is an exception for immigrants who are victims of emotional or physical abuse by their spouse. They can file a special self-petition (Form I-360) any time until the divorce becomes final or for two years afterward, if they can show that the divorce was related to the domestic violence. (These self-petitions are not covered in this book. Talk to a U.S. nonprofit organization or consult an attorney. See Chapter 17 for suggestions on how to locate nonprofits and good attorneys.)

## iii. If a Beneficiary Dies

If you were to die, your children would lose their opportunity for a visa as well—unless your spouse has filed or can file a separate petition for them in category 2A or 2B.

If your family is in this situation, the U.S. permanent resident petitioner should ask USCIS to “recapture” the deceased parent’s Priority Date when the permanent resident submits the new visa petitions. If USCIS assigns the deceased parent’s date to the children, the children won’t have to start the waiting game all over.

## iv. If the Petitioner Dies

In most visa cases, the petitioning spouse’s death is a disaster for all beneficiaries awaiting visas. The death of the petitioner will cancel the visa petition. If you’re the spouse of a permanent resident and he or she passes away, you and your children lose your right to a visa.

One rare exception has been made for the spouses and children (unmarried, under 21) of U.S. citizens. These beneficiaries can still apply for a visa

or green card. This might help a family where the permanent resident is already eligible for citizenship, and has an illness from which they may not recover.

**EXAMPLE:** Olga was a 2A who had been on the waiting list for a green card for a few years, but her Priority Date was still far from current. Olga’s U.S. permanent resident husband developed cancer, and it became clear that he was not going to live. USCIS consented to an emergency citizenship interview just before he died. He passed the exam, and was sworn in as a citizen soon after. This allowed his wife and children to immediately apply for their green cards as his widow and children.

In rare cases, for humanitarian reasons, USCIS allows bereaved spouses of permanent residents or others who aren’t eligible as widows and children of a U.S. citizen to continue on with their visa or green card application even after the death of the petitioner. However, you would need a lawyer’s help for this.

## v. If a Petitioner Loses His Permanent Resident Status

If the permanent resident petitioner loses the right to live in the United States, the immigrant applicants lose the right to live there also. In theory, permanent residence or a green card gives a person the right to live in the United States permanently—but this right can be taken away. If, for example the petitioner spends many months overseas, USCIS may decide that he abandoned his U.S. residency and refuse to let him reclaim it. Or, if the petitioner commits certain crimes, his permanent residency could be taken away and he could be deported.

Even if a permanent resident has had a crime on his record for a long time, he may not be safe. Recent laws have allowed USCIS to deport people for crimes that would not have made them deportable when the crime was committed. Since the goal of the law is to reunite families, it makes sense that the government would refuse to grant immigrant visas to the family members of former permanent residents.

## h. Should I Wait Until My Spouse Is a U.S. Citizen?

Applicants sometimes ask, “If I can avoid the Visa Preference System by waiting for my spouse to become a U.S. citizen, shouldn’t I do so and avoid the quotas and waiting period?” The answer is no, you don’t really gain anything by waiting, and you may actually lose time if your spouse’s citizenship gets delayed.

You don’t gain anything because your spouse will have to submit the visa petition sometime, even after she or he becomes a U.S. citizen. The form is the same, whether your spouse is a citizen or permanent resident. Your approval notice will remain good even after your spouse becomes a citizen. Besides this, the longer you wait, the higher the application fee is likely to go (it’s already \$225). Finally, you can’t predict for sure when your spouse will actually become a citizen—and you will lose time until that happens.

Let’s take an imaginary permanent resident spouse named Kari. Kari is only one year away from being eligible to apply for citizenship. Her immigrating spouse, Sven, might think it’s better to wait until she’s a citizen before she files the I-130 on his behalf. But after Kari turns in the citizenship application, she waits another year before her interview. Then the officer tells her, “I can’t approve this until you show me proof of all your divorces, and you need to amend your last year’s tax return and pay back the extra tax that you owe to show me that you have good moral character.” This takes time to pull together, and Kari waits a few months more for the final approval.

You can see how things might drag on. Even after your spouse is approved for citizenship, it could be a few months more before he or she attends the ceremony making him or her a U.S. citizen. By waiting for your spouse to attain U.S. citizenship, you could end up waiting even longer than you would have as a Preference Relative.

## 3. Step Three: Instruction Package

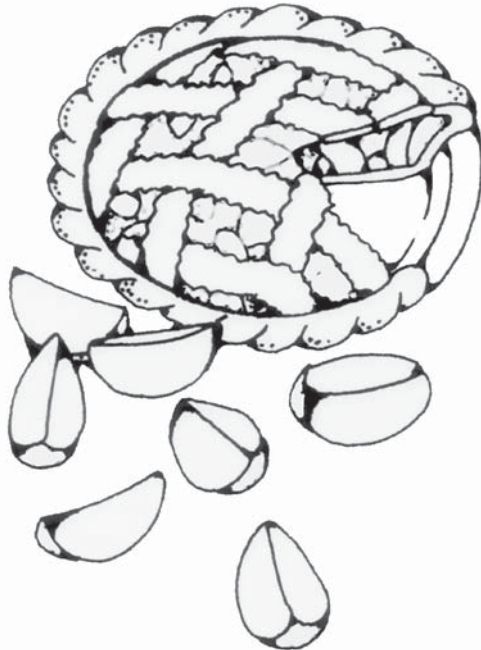
Finally, after years of waiting, your Priority Date will become current. If the National Visa Center doesn’t contact you within a matter of weeks, go back to Subsection 2e regarding how to contact it.



**If you used this book for Step One, you probably need a new edition now.**

In the years that you waited for your Priority Date to become current, the immigration laws or procedures may have changed. Check with Nolo’s customer service department regarding how to obtain a new edition. You will receive a discount on the new edition if you return the cover of the old one.

Once the NVC sees that your Priority Date is current, it will send you forms and instructions for Step Three. This will include an Affidavit of Support (Form I-864) for your petitioning spouse to fill out. The NVC will instruct your spouse to send the completed Form I-864 back to the NVC or to give it directly to you, the immigrant (for you to hand carry



**Vermont**  
State Pie: Apple Pie

to your consular interview as part of Step Four), depending on which country you are from. If your petitioning spouse is instructed to send the I-864 back to the NVC, the process will be briefly held up until the NVC reviews and approves it for completeness.

Next, you (the immigrant) will receive a collection of forms and instructions from the NVC (the “Instruction Package”).



**It's never too soon to get your vaccinations up to date.** Before you're allowed to enter the United States, you'll have to prove that you've had all the necessary vaccinations, as listed in Chapter 2, Section A. Check with your local doctor now so that you're not stuck later waiting weeks while a series of shots is administered.

Meanwhile, the NVC will have sent your application file along to the appropriate consulate. If you've been legally living in a country that is not your country of citizenship, you'll probably be told to

work with the consulate in the country where you now live. If your country of residence doesn't have diplomatic relations with the United States, the NVC will name another consulate in another country to handle your case.

### a. Line-by-Line Instructions for Step Three, Forms for Mailing to NVC

After your I-130 visa petition has been approved, you will receive what's called a Choice of Address and Agent form (DS-3032) from the NVC. This is a very simple form, indicating whether you have an attorney or not, so we don't include further instructions for filling it out.



This form is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. For illustration purposes, the first page of this form is shown below.

## Form DS-3032, Choice of Address and Agent

Make sure the address is complete and correct. We will use this address for future mailings.

OMB No. 1405-0126  
EXPIRATION DATE: 12/31/2006  
ESTIMATED BURDEN: 30 minutes\*

Place Case Barcode Strip Here Before Mailing to the National Visa Center

**U.S. Department of State**  
**CHOICE OF ADDRESS AND AGENT**  
For Immigrant Visa Applicants

Print or type your full name

Check one box only to the left of the statement that is your choice.

☐ I appoint: \_\_\_\_\_  
as my agent or attorney to receive mail about my application. Mail from the U. S. Department of State concerning my immigrant visa application should be sent to:

Name of the person who will act as your agent or attorney for receipt of mail

At the same time, the NVC will send a bill for processing the Affidavit of Support (Form I-864—fee currently \$65) to your petitioner. Then, once the NVC receives your Form DS-3032, it will mail you a bill for the immigrant visa processing fee (currently \$335). Once the visa fee is paid, the NVC will send you the instruction packet of forms and information.

Certain forms vary among consulates (for example, some include translations into the language of that country). Although versions of these forms are provided in this book, it's better to use the one that you receive from the NVC, in case it's different.

### i. Form DS-230 Part I

Form DS-230 Part I is designed to collect basic identifying information about you, including your physical features and the names of your children.



Form DS-230 Part I is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. However, it's best to use the form you receive from the NVC because it may be slightly different. Below is a picture of the first page of this form.



### Montana

State Animal: Grizzly Bear  
The California Grizzly has been extinct for over 75 years

**Questions 1-18:** Self-explanatory (similar to the questions on Form I-130; see Subsection 1a, above).

**Question 19:** List all your children. You'll have a chance to identify which ones are immigrating with you later.

**Question 20:** Self-explanatory.

**Question 21a:** List only those children of yours who also have an approved I-130 visa petition and will be immigrating with you.

**Question 21b:** List only those children who have an approved I-130 visa petition and will be following to join you.

**Questions 22-24:** Self-explanatory.

**Question 25:** If you've spent more than 180 days in the United States without a valid visa or other right to live in the United States after April 1, 1997, you need to see a lawyer before going any farther. (See Chapter 2, Section A2, "Dealing With Unlawful Time in the United States.")

Don't forget to sign this form at the bottom.

### ii. Form OF-169, DS-169, or DS-2001

Most of this form is actually a list of documents that you'll need to prepare and bring to your visa interview. (This form is, however, being put through a transition—the one you receive may not have any of the numbers mentioned above, and it may be formatted differently from our sample OF-169 below, so that the list of documents is separated from the part that you sign to indicate you're ready with your forms.)

**Don't make the mistake of mailing the documents in with this form.** All you have to do now is to check the boxes on the form and send it in, which tells the consulate that you will have these documents ready for your visa interview. Be sure to fill out the name and address section at the bottom. Your case number is found on the cover letter you received in your packet from the NVC. Form OF-169 is normally printed out double-sided.



Form OF-169 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. However, it's best to use the form you receive from the U.S. consulate because it may be slightly different. Below is a picture of the first page of this form.



## Form DS-230, Part I—Page 1



U.S. Department of State  
**APPLICATION FOR IMMIGRANT VISA AND  
 ALIEN REGISTRATION**

OMB APPROVAL NO. 1405-0015  
 EXPIRES: 05/31/2004  
 ESTIMATED BURDEN: 1 HOUR\*  
 (See Page 2)

**PART I - BIOGRAPHIC DATA**

**INSTRUCTIONS:** Complete one copy of this form for yourself and each member of your family, regardless of age, who will immigrate with you. Please print or type your answers to all questions. Mark questions that are Not Applicable with "N/A". If there is insufficient room on the form, answer on a separate sheet using the same numbers that appear on the form. Attach any additional sheets to this form.

**WARNING:** Any false statement or concealment of a material fact may result in your permanent exclusion from the United States.

This form (DS-230 PART I) is the first of two parts. This part, together with Form DS-230 PART II, constitutes the complete Application for Immigrant Visa and Alien Registration.

1. Family Name		First Name		Middle Name	
2. Other Names Used or Aliases (If married woman, give maiden name)					
3. Full Name in Native Alphabet (If Roman letters not used)					
4. Date of Birth (mm-dd-yyyy)	5. Age	6. Place of Birth (City or town) (Province) (Country)			
7. Nationality (If dual national, give both)	8. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	9. Marital Status <input type="checkbox"/> Single (Never married) <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input type="checkbox"/> Separated Including my present marriage, I have been married _____ times.			
10. Permanent address in the United States where you intend to live, if known (street address including zip code). Include the name of a person who currently lives there.			11. Address in the United States where you want your Permanent Resident Card (Green Card) mailed, if different from address in item #10 (include the name of a person who currently lives there).		
Telephone number:			Telephone number:		
12. Your Present Occupation			13. Present Address (Street Address) (City or Town) (Province) (Country)		
			Telephone number: Home Office		
14. Name of Spouse (Maiden or family name)		First Name		Middle Name	
Date (mm-dd-yyyy) and place of birth of spouse:					
Address of spouse (If different from your own):					
Spouse's occupation: Date of marriage (mm-dd-yyyy):					
15. Father's Family Name		First Name		Middle Name	
16. Father's Date of Birth (mm-dd-yyyy)	Place of Birth	Current Address		If deceased, give year of death	
17. Mother's Family Name at Birth		First Name		Middle Name	
18. Mother's Date of Birth (mm-dd-yyyy)	Place of Birth	Current Address		If deceased, give year of death	

DS-230 Part I  
 05-2001

THIS FORM MAY BE OBTAINED FREE AT CONSULAR OFFICES OF THE UNITED STATES  
 PREVIOUS EDITIONS OBSOLETE

Additional pages not shown.



## Form OF-169, Instructions for Immigrant Visa Applicants—Page 1



## INSTRUCTIONS FOR IMMIGRANT VISA APPLICANTS

This office has received evidence entitling you to immigrant visa status. While no assurance can be given regarding the date of your visa interview appointment, you should now prepare for that appointment by taking the following three steps:

**FIRST:** Complete and send immediately to the consular office processing your case the enclosed Form OF-230 PART I, APPLICATION FOR IMMIGRANT VISA AND ALIEN REGISTRATION (Biographic Data). The consular office cannot process your case until this form is received.

**SECOND:** Obtain the following documents on this checklist which pertain to you. As you obtain each document, check the box before each item. Do NOT send them to the consular office.

☐ **1.PASSPORTS:** A Passport must be valid for travel to the United States and must have at least six months validity beyond the issuance date of the visa. Children may be included on a parent's passport, but if over the age of 16, they must have their photographs attached to the passport.

☐ **2.BIRTH CERTIFICATES:** One certified copy of the birth certificate of each person named in the application is required. Birth records must be presented for all unmarried children under age 21, even if they do not wish to immigrate at this time. (If children are deceased, so state giving year of death.) The certificate must state the date and place of birth and the names of both parents. The certificate must also indicate that it is an extract from official records. If you, or any children were adopted, you must submit a certified copy of the final adoption decree. Photostatic copies are acceptable provided the original is offered for inspection by the consular officer.

**UNOBTAINABLE BIRTH CERTIFICATE:** In rare cases, it may be impossible to obtain a birth certificate because records have been destroyed or the government will not issue one. In such cases, you should obtain a statement to that effect from the civil registrar's office and proceed to obtain secondary evidence of birth. A baptismal certificate may be submitted for consideration provided it contains the date and place of the applicant's birth and information concerning parentage and provided the baptism took place shortly after birth. Should a baptismal certificate be unobtainable, a close relative, preferably the applicant's mother, should prepare a notarized statement giving the place and date of the applicant's birth, the names of both parents, and the maiden name of the mother. The statement must be executed before an official authorized to administer oaths or affirmations. In such cases, please bring any secondary evidence you might have concerning your birth.

☐ **3.POLICE CERTIFICATES:** Each visa application aged 16 years or over is required to submit a police certificate from the police authorities of each locality of the country of the applicant's nationality or current residence where the applicant has resided for at least six months since attaining the age of sixteen. Police certificates are also required from all other countries where the applicant has resided for at least one year. A police certificate must also be obtained from the police authorities of any place where the applicant has been arrested for any reason, regardless of how long he or she lived there. Police certificates must cover the entire period of the applicant's residence in any area. A certificate issued by the police authorities where you now reside must be of recent date when presented to the consular officer. The term "police certificate" as used in this paragraph means a certification by appropriate police authorities stating what their records show concerning each applicant, including all arrests, the reasons for the arrests, and the disposition of each case of which there is a record.

Police certificates from certain countries are considered unobtainable. See the attached list on form DSL-1083. If specific questions arise regarding police certificates, please consult the consular office.

☐ **4.COURT AND PRISON RECORDS:** Persons who have been convicted of a crime must obtain a certified copy of each court record and of any prison record, regardless of the fact that they may have benefited subsequently from an amnesty, pardon, or other act of clemency.

☐ **5.MILITARY RECORDS:** A certified copy of any military record, if applicable and obtainable, is required.

☐ **6.PHOTOGRAPHS:** Two (2) color photographs with white background on glossy paper, unretouched, and unmounted are required. The photograph must be a three-quarter frontal portrait with the right side of the face and right ear visible. The dimensions of the facial image must measure about one inch (30mm) from chin to top of hair. No head covering or dark glasses should be worn.

☐ **7.EVIDENCE OF SUPPORT:** Form I-864, a contractual affidavit of support, must be submitted by most family-based applicants and employment-based applicants when a relative is the petitioner or has ownership interest in the petitioning business. The enclosed information sheet provides guidance in preparing the I-864. Other applicants must show evidence that they are not likely to become public charges while in the United States.

Additional pages not shown.



**Keep the process moving.** Form OF-169 asks you not to check any boxes or return the form until you actually have the documents in hand. Now, we don't recommend that you cavalierly start checking off boxes, but practically nobody follows this instruction to the letter. Just make sure you know that you can get the documents, then get this form in the mail. You'll have at least a few months' preparation time before your interview.

The boxes on Form OF-169 that you absolutely have to check, and prepare documents to match, are **1, 2, 6, 7, 8, 9, and 10**. These items are all self-explanatory or are fully explained on the form itself.

**Box 3:** You need to obtain a police certificate (hopefully showing your clean record) only if such certificates are available in your country. The U.S. consulate will tell you whether they are. You'll also get an up-to-date list with your packet of instruction forms. If you don't have a clean record, consult a lawyer; see Chapter 17 for tips on finding a good attorney.

**Box 4:** This needs to be dealt with only if you have a criminal record.

**Box 5:** This needs to be dealt with only if you've served in the military.

## b. Where to Send Step Three Forms

After you have finished preparing the Step Three forms, make a complete copy for yourself. Then mail the original forms back to the National Visa Center. Your spouse should send it by certified mail, with a return receipt requested, or by some other secure delivery method that gives you proof it arrived. If you are mailing it from your own country, use whatever method is considered safest, and ask for a return receipt if this service is available.

## c. What Happens After You Send in Step Three Forms

After the NVC receives your paperwork, it will transfer your file to an overseas U.S. consulate. The consulate will respond by sending you a date and loca-

tion for a fingerprint appointment, to make sure you do not have a criminal record. After you're fingerprinted, you'll have to wait until your prints have cleared with the U.S. FBI. After that, assuming the results show you do not have a criminal record, you'll move on to the next step in this process. (See Chapter 2, Section A, regarding which types of crimes would make you inadmissible, or consult a lawyer if you believe you have a record.)

## d. Using the Checklist for Step Three Forms for Mailing to NVC

The checklist for Step Three, below, lists the two forms that you will need to assemble and return to the NVC. Please note that this checklist doesn't cover the Form I-864 mentioned above, which certain applicants have to send in before these two forms. Most people don't have to prepare Form I-864 until Step Four, so instructions for it are contained in that checklist (Subsection 4f) and in the sections cross-referenced there.



The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

### Checklist for Forms for Mailing to the NVC

- ☐ Form DS-230 Part I (see line-by-line instructions in Subsection a, above)
- ☐ Form OF-169 or DS-2001 (see line-by-line instructions in Subsection a, above).

## 4. Step Four, Procedures for Interview

When the NVC has reviewed your packet of forms, it will transfer your case to a U.S. consulate overseas. Then, once the consulate has received your security check and found a space on its calendar for an interview, it will send you a final packet of mate-

rials. This will include an appointment date, instructions on how to get your medical exam, a final form to fill out and bring to your interview, and instructions for other documents to bring to the interview. These items are detailed in the checklist in Subsection f, below.

The following subsections give you line-by-line instructions for filling out the forms (Subsection a) and gathering financial documents (Subsection b), tips on proving that your marriage is bona fide (Subsection c), information on the medical exam (Subsection d), and information on where to take the completed packet (Subsection e).

### a. Line-by-Line Instructions for Step Four Interview Forms

To use this section, you'll need to have copies of the appropriate forms in front of you: Form DS-230 Part II, Form I-864, and, if appropriate, Form I-864A.

#### i. Form DS-230 Part II



Form DS-230 Part II is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. However, it's best to use the form you receive from the U.S. consulate because it may be slightly different. Below is a picture of the first page of this form.

Form DS-230 Part II is fairly short—it's intended to give the consulate final confirmation of who you are and where you're going. Most of this form is self-explanatory. Because consulates use slightly different versions of this form, we can't give you the number that a question will appear under. Consequently, we'll identify the questions by the language that they contain.

The **"person you intend to join"** and the **"sponsoring person"** both refer to your spouse. Enter his or her name, perhaps twice.

A few versions of the form still ask about your **"purpose in going to the United States."** The answer is to "immigrate." If the form asks for **"length of intended stay,"** your answer is "permanent."

The **"yes or no"** questions (with boxes to check) refer to the grounds of inadmissibility described in Chapter 2. If you check "yes" on any of them, consult a lawyer immediately, before sending in the form.

**Signature line:** Don't sign until the interview!

#### ii. Form I-864

Form I-864, the Affidavit of Support, is the primary form that your spouse and any joint sponsor will use to prove that he, she, or they are willing and able to support you. (You might need a joint sponsor to assist in supporting you if your spouse's income and assets aren't high enough to reach the government's guidelines, as covered in Chapter 3.) The form is normally printed out two-sided, head to foot.

Be sure to read Chapter 3, Section A, before beginning to fill out this form. The chapter contains analysis of the legal implications of this form and your strategy in filling it out.



Form I-864 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

As explained in Section 3, above, some applicants will be asked to submit this form before sending in their forms from the NVC. If you are one of these applicants, make sure your spouse sends you a copy to review and have with you at your visa interview.

Because this form may be filled out either by your spouse or by a joint sponsor, the instructions below usually refer to the "sponsor," which refers to either of them.

#### Part 1:

Self-explanatory, as long as you remember that it's your petitioner/sponsor filling this out. Under **Place of Residence**, note that the address must be in the United States for your spouse to be eligible as a financial sponsor. If your spouse is living overseas and doesn't want to return to the United States until you, the immigrant, can enter with him or her, he or she must still prepare and sign an Affidavit of Support. However, he or she will have no choice but to find a joint sponsor who lives in the United States and will submit an additional Affidavit.



## Form DS-230, Part II, Application for Immigrant Visa and Alien Registration— Page 1



U.S. Department of State  
**APPLICATION FOR IMMIGRANT VISA AND  
 ALIEN REGISTRATION**

OMB APPROVAL NO. 1405-0015  
 EXPIRES: 05/31/2004  
 ESTIMATED BURDEN: 1 HOUR\*

**PART II - SWORN STATEMENT**

**INSTRUCTIONS:** Complete one copy of this form for yourself and each member of your family, regardless of age, who will immigrate with you. Please print or type your answers to all questions. Mark questions that are Not Applicable with "N/A". If there is insufficient room on the form, answer on a separate sheet using the same numbers that appear on the form. Attach any additional sheets to this form. The fee should be paid in United States dollars or local currency equivalent, or by bank draft.

**WARNING:** Any false statement or concealment of a material fact may result in your permanent exclusion from the United States. Even if you are issued an immigrant visa and are subsequently admitted to the United States, providing false information on this form could be grounds for your prosecution and/or deportation.

This form (DS-230 PART II), together with Form DS-230 PART I, constitutes the complete Application for Immigrant Visa and Alien Registration.

26. Family Name	First Name	Middle Name
27. Other Names Used or Aliases (If married woman, give maiden name)		
28. Full Name in Native Alphabet (If Roman letters not used)		
29. Name and Address of Petitioner		
Telephone number:		

30 United States laws governing the issuance of visas require each applicant to state whether or not he or she is a member of any class of individuals excluded from admission into the United States. The excludable classes are described below in general terms. You should read carefully the following list and answer YES or NO to each category. The answers you give will assist the consular officer to reach a decision on your eligibility to receive a visa.

**EXCEPT AS OTHERWISE PROVIDED BY LAW, ALIENS WITHIN THE FOLLOWING CLASSIFICATIONS ARE INELIGIBLE TO RECEIVE A VISA.  
 DO ANY OF THE FOLLOWING CLASSES APPLY TO YOU?**

- a. An alien who has a communicable disease of public health significance; who has failed to present documentation of having received vaccinations in accordance with U.S. law; who has or has had a physical or mental disorder that poses or is likely to pose a threat to the safety ☐ Yes ☐ No
- b. An alien convicted of, or who admits having committed, a crime involving moral turpitude or violation of any law relating to a controlled substance or who is the spouse, son or daughter of such a trafficker who knowingly has benefited from the trafficking activities in the past five years; who has been convicted of 2 or more offenses for which the aggregate sentences were 5 years or more; who is coming to the United States to engage in prostitution or commercialized vice or who has engaged in prostitution or procuring within the past 10 years; who is or has been an illicit trafficker in any controlled substance; who has committed a serious criminal offense in the United States and who has asserted immunity from prosecution; who, while serving as a foreign government official and within the previous 24-month period, was responsible for or directly carried out particularly severe violations of religious freedom; or whom the President has identified as a person who plays a significant role in a severe form of trafficking in persons, who otherwise has knowingly aided, abetted, assisted or colluded with such a trafficker in severe forms of trafficking in persons, or who is the spouse, son or daughter of such a trafficker who knowingly has benefited from the trafficking activities within the past five years. ☐ Yes ☐ No
- c. An alien who seeks to enter the United States to engage in espionage, sabotage, export control violations, terrorist activities, the overthrow of the Government of the United States or other unlawful activity; who is a member of or affiliated with the Communist or other totalitarian party; who participated in Nazi persecutions or genocide; who has engaged in genocide; or who is a member or representative of a terrorist organization as currently designated by the U.S. Secretary of State. ☐ Yes ☐ No
- d. An alien who is likely to become a public charge. ☐ Yes ☐ No
- e. An alien who seeks to enter for the purpose of performing skilled or unskilled labor who has not been certified by the Secretary of Labor; who is a graduate of a foreign medical school seeking to perform medical services who has not passed the NBME exam or its equivalent; or who is a health care worker seeking to perform such work without a certificate from the CGFNS or from an equivalent approved independent credentialing organization. ☐ Yes ☐ No
- f. An alien who failed to attend a hearing on deportation or inadmissibility within the last 5 years; who seeks or has sought a visa, entry into the United States, or any immigration benefit by fraud or misrepresentation; who knowingly assisted any other alien to enter or try to enter the United States in violation of law; who, after November 30, 1996, attended in student (F) visa status a U.S. public elementary school or who attended a U.S. public secondary school without reimbursing the school; or who is subject to a civil penalty under INA 274C. ☐ Yes ☐ No

**Privacy Act and Paperwork Reduction Act Statements**

The information asked for on this form is requested pursuant to Section 222 of the Immigration and Nationality Act. The U.S. Department of State uses the facts you provide on this form primarily to determine your classification and eligibility for a U.S. immigrant visa. Individuals who fail to submit this form or who do not provide all the requested information will be denied a U.S. immigrant visa. If you are issued an immigrant visa and are subsequently admitted to the United States as an immigrant, the Immigration and Naturalization Service will use the information on this form to issue you a Permanent Resident Card, and, if you so indicate, the Social Security Administration will use the information to issue you a social security card.

\*Public reporting burden for this collection of information is estimated to average 1 hour per response, including time required for searching existing data sources, gathering the information required, and reviewing the final collection. In accordance with 5 CFR 1320 5(b), persons are not required to respond to the collection of information if it does not display a currently valid OMB control number. Send comments on the accuracy of this estimate of the burden and recommendations for reducing the burden to Washington, D.C. 20520.



**Until your spouse is a U.S. citizen, he or she should be very careful about spending long time periods outside the United States.** The U.S. government may conclude that he “abandoned” his residency and green card and may refuse to let him return—or to continue helping you to immigrate. See Chapter 16 for more on how to avoid abandoning permanent resident status.

#### Part 2:

Spouses check box **a**. Long-lost cousins, fairy godmothers, and any other friends who agreed to fill out this form as joint sponsors check box **d**.

#### Part 3:

Self-explanatory. This list of children should only include those who will be immigrating along with the immigrant spouse. If you mention any other children here, it will mean that the sponsor is making a contractual agreement to support them as well as the children you bring with you. It is unnecessary to name children who were born in the United States, because the sponsor need not contract to support them (even though they may be counted elsewhere within this form to test the sponsor’s overall financial capacity.).

#### Part 4:

**Section A, Sponsor’s Employment:** The sponsor needs to fill in information about his/her employment. Self-employment is fine. If, however, the self-employed sponsor has underreported income in the past, the sponsor may find that he or she needs to file an amended tax return and pay a penalty in order to meet the income guidelines for sponsorship.

#### Section B, Sponsor’s Household Size:

**Question 1:** Count up everyone in the sponsor’s household except the immigrant spouse and any immigrating children. Insert the number on the line to the right.

**Question 2:** Count up and insert the number of people who weren’t mentioned in Question 1, namely the immigrant spouse and any immigrating children.

**Question 3:** Count up and insert the number of other immigrants for whom the sponsor has signed an I-864 (and list them in the box below).

**Question 4:** Count up and insert the number of persons listed on the sponsor’s tax return who were not already counted above.

**Question 5:** Add all the people up.

#### Part 4, continued on page 3:

#### Section C, Sponsor’s Annual Household Income:

Check the boxes to show what type of tax return the sponsor filed. Your spouse will most likely check the first box, seeing as you are living overseas and probably did not have to pay taxes to the U.S. government.

At the line saying **Sponsor’s individual income**, the sponsor is supposed to enter the income shown on his or her most recent tax return. But what if the sponsor’s income has risen since filing those taxes? In that case, the sponsor should enter the more recent income figure, but put an asterisk (an “\*”) next to it. Then find some white space somewhere on the page and write “this figure reflects present earnings, not earnings shown on tax return; see supporting documentation.” The documentation already being provided, such as the sponsor’s employer letter, should be enough to show current income.

The line requesting **Income of other qualifying persons** is where the sponsor lists the household joint sponsors discussed above in Chapter 3—members of the household who are willing to contribute their income to help meet the *Poverty Guidelines*’ minimum requirements. (If their income is not needed, there is no need to list these people here.)

When you’ve totaled all the lines, insert the figure on the bottom line for **Total Household Income**.

#### Section D, Determination of Eligibility Based on Income:

**Question 1:** Unless the sponsor is in the military, he or she should put an X in the first box—sponsors have no choice but to be subject to the 125% of poverty line requirement.

**Question 2:** Self-explanatory.



## Form I-864, Affidavit of Support—Page 1

OMB No. 1115-0214

U.S. Department of Justice  
Immigration and Naturalization ServiceAffidavit of Support Under Section  
213A of the Act

START HERE - Please Type or Print

## Part 1. Information on Sponsor (You)

Last Name	First Name	Middle Name
Mailing Address (Street Number and Name)		Apt/Suite Number
City		State or Province
Country	ZIP/Postal Code	Telephone Number

Place of Residence if different from above (Street Number and Name)		Apt/Suite Number	<b>FOR AGENCY USE ONLY</b>  This Affidavit <input type="checkbox"/> Meets <input type="checkbox"/> Does not meet Requirements of Section 213A  Officer or I.J. Signature  Location  Date
City		State or Province	
Country	ZIP/Postal Code	Telephone Number	
Date of Birth (Month, Day, Year)	Place of Birth (City, State, Country)	Are you a U.S. Citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Social Security Number		A-Number (If any)	

## Part 2. Basis for Filing Affidavit of Support

I am filing this affidavit of support because (check one):

- a. ☐ I filed/am filing the alien relative petition.
- b. ☐ I filed/am filing an alien worker petition on behalf of the intending immigrant, who is related to me as my \_\_\_\_\_ (relationship).
- c. ☐ I have ownership interest of at least 5% \_\_\_\_\_ (name of entity which filed visa petition) which filed an alien worker petition on behalf of the intending immigrant, who is related to me as my \_\_\_\_\_ (relationship).
- d. ☐ I am a joint sponsor willing to accept the legal obligations with any other sponsor(s).

## Part 3. Information on the Immigrant(s) You Are Sponsoring

Last Name	First Name	Middle Name
Date of Birth (Month, Day, Year)	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Social Security Number (If any)
Country of Citizenship	A-Number (If any)	
Current Address (Street Number and Name)	Apt/Suite Number	City
State/Province	Country	ZIP/Postal Code
Telephone Number		

List any spouse and/or children immigrating with the immigrant named above in this Part: (Use additional sheet of paper if necessary.)

Name	Relationship to Sponsored Immigrant			Date of Birth			A-Number (If any)	Social Security (If any)
	Spouse	Son	Daughter	Mo.	Day	Yr.		

Additional pages not shown.

**Question 3:** Look at the *Poverty Guidelines*' chart at the back of Form I-864 and enter the year and the required amount for the sponsor's household size. Then double check to make sure this required income amount is less than the amount of income entered under **Total Household Income**. If the sponsor's income isn't at or above the requirements, the sponsor will need to make up the difference by either:

- showing ownership of assets (coming up next on the form)
- showing that you, the beneficiary, own assets (which you would do by following the instructions below, under Section E of this form), or
- by finding a joint sponsor (discussed in Chapter 3, Section A) to submit an additional Affidavit of Support.

**Section E, Sponsor's Assets and Liabilities:** Fill out this section only if the sponsor's income alone wasn't enough to meet the *Poverty Guidelines*' requirements. If the sponsor does need to add assets to the calculation, such as a house, car, or boat, the sponsor must remember to subtract debts, mortgages, and liens before writing down their value. And remember that the value of these assets will later be divided by five before being used to meet the *Poverty Guidelines*' minimum. If some of the assets used to meet the minimum belong to the immigrant, attach a separate page describing these in the same format as in this Section F. As with the primary sponsor, the immigrant must attach documents to prove that he or she owns the asset, and to show its location and value.

If the combination of the your spouse's household income and one fifth of his or her assets still doesn't meet the *Poverty Guidelines*' minimum, you'll need to hand in the Affidavit that he or she prepares anyway. The petitioning spouse of the immigrant must sign an affidavit promising to support the immigrant no matter how low his or her income. But you'll definitely want to look for a joint sponsor.

#### Part 7:

**The sponsor must not sign this until he/she is in front of a notary public.** A notary public is someone who is legally authorized by a state government to check

a person's identification and make sure that the person signing the document is the one who is named as the person who should sign. To convince a notary of his or her identity, the sponsor should bring a driver's license or other form of photo identification. The notary will then ask your sponsor to sign the form, and will place a stamp on it. The notary shouldn't charge more than around \$15 for this service. Notaries can easily be found by looking in the Yellow Pages of a local phone book.



#### **Need to prepare Affidavits for several family members at once?**

If the sponsor is bringing in more than one person (you and your children) in the same process, he or she can simply copy Form I-864 (with supporting documents) the appropriate number of times after signing it. USCIS has gone back and forth on this requirement several times, so if you see contradictory advice, make sure the source is more recent than this publication.

#### iii. Form I-864A

Not every immigrant needs to submit Form I-864A. It is required only if, on the main Form I-864, the sponsor had to use the income of members of his or her own household to meet the *Poverty Guidelines*. In that case, the sponsor will have to ask these persons to fill out portions of Form I-864A. Then both the sponsor and the household member(s) will have to take the form to a notary public and sign it. The sponsor must then attach the Form I-864A to the main Form I-864. This form is normally printed out double-sided, head to foot.



Form I-864A is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

**Page 1 heading:** Filled out by the household member. Self-explanatory.

**Part 1:** Self-explanatory.

**Part 2:** This part is filled out by the sponsor. Self-explanatory.

**Part 3:** Filled out by the household member. Self-explanatory.

**Part 4:** (Not applicable to immigrants living overseas.)

**Parts 5 and 6:** This is where the sponsor and the household member will each sign their names, in front of a notary public.

## b. Financial Documents to Have on Hand

When it comes to proving your sponsor's capacity to support you financially, the consulate will require detailed, up-to-date information from trustworthy sources, as detailed below.

### i. Documents to Accompany Form I-864

Form I-864 asks for several supporting documents. If your spouse is relying on a joint sponsor (someone outside the household), that person should also be told to assemble a set of these documents:

- **A copy of your spouse/sponsor's federal income tax returns for the last three years, with W-2s.**

Don't include state tax forms. The immigration authorities prefer to see federal tax returns in the form of Internal Revenue Service (IRS) transcripts (an IRS-generated summary of the return that was filed). Transcripts can be requested using IRS Form 4506 (available from [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM). However, it usually takes several weeks to receive the transcript. Don't let this hold up the immigration process—if the transcript hasn't come by the time you need to submit the Form I-864, simply use your sponsor's personal photocopies of his or her tax returns.

- **Proof of your sponsor's current employment.**

Start with a letter from the sponsor's employer describing the dates of employment, nature of the job, wages/salary, time worked per week, terms, and prospects for advancement. The sample letter below shows how one employer described a sponsor's job and compensation. Also include copies of pay stubs covering the last six months, or the most recent stub if it

shows cumulative pay. If the sponsor is self-employed, a tax return is acceptable, but it's a good idea to add a business license, copies of current receipts, or other supporting documents.

- A list of assets, (the sponsor's and/or the immigrant's) if they must be used to meet the *Poverty Guidelines*' minimum.

There is no form to use for creating this list.

Using a typewriter or word processor, prepare a list or table with the following information:

- a brief description of the item
- the item's current value
- remaining debt (if any), and
- a brief description of the document you've attached to prove ownership (see below).
- **Proof of ownership of assets (the sponsor's and/or the immigrant's), if any were listed.** The Form I-864 itself does a good job of detailing which documents will be accepted as proof of ownership of assets, as explained on pages 2 and 3, Evidence of Assets. The value must be the likely sale price, not how much the sponsor paid for the property. For real estate, you can use a tax assessment to show the value. If the assessment seems too low, or for property other than real estate, the sponsor can hire a professional appraiser to prepare an estimate and report. For cars, the value listed in the *Kelley Blue Book* is acceptable. Look for the *Kelley Blue Book* at a library or bookstore, or online at [www.kbb.com](http://www.kbb.com). The sponsor must also document the amount of any debt remaining on the property. If no debt remains, submit proof of final payment.



### **You may need to update your information later.**

By the time you get to your visa interview, circumstances may have changed for your sponsor, joint sponsor, or household joint sponsor. For example, if the sponsor or joint sponsor have new or different employment, bring a job letter and copies of recent pay stubs; and if a new tax year has begun, bring copies of the sponsor(s)' most recent tax returns.

## Form I-864A, Contract Between Sponsor and Household Member—Page 1

U.S. Department of Justice  
Immigration and Naturalization Service

OMB No. 1115-0214

## Contract Between Sponsor and Household Member

Sponsor's Name (*Last, First, Middle*)

Social Security Number

A-Number (If any)

**General Filing Instruction**

Form I-864A, Contract Between Sponsor and Household Member, is an attachment to Form I-864, Affidavit of Support Under Section 213A of the Immigration and Nationality Act (the Act). The sponsor enters the information above, completes Part 2 of this form, and signs in Part 5. The household member completes Parts 1 and 3 of this form and signs in Part 6. A household member who is also the sponsored immigrant completes Parts 1 and 4 (instead of Part 3) of this form and signs in Part 6. The Privacy Act Notice and information on penalties for misrepresentation or fraud are included on the instructions to Form I-864.

The signatures on the I-864A must be notarized by a notary public or signed before an immigration or consular officer. A separate form must be used for each household member whose income and/or assets are being used to qualify. This blank form may be photocopied for that purpose. A sponsored immigrant who qualifies as a household member is only required to complete this form if he or she has one or more family members immigrating with him or her and is making his or her *income* available for their support. Sponsored immigrants who are using their *assets* to qualify are not required to complete this form. This completed form is submitted with Form I-864 by the sponsored immigrant with an application for an immigrant visa or adjustment of status.

**Purpose**

This contract is intended to benefit the sponsored immigrant(s) and any agency of the Federal Government, any agency of a State or local government, or any private entity to which the sponsor has an obligation under the affidavit of support to reimburse for benefits granted to the sponsored immigrant, and these parties will have the right to enforce this contract in a court with appropriate jurisdiction. Under Section 213A of Act, this contract must be completed and signed by the sponsor and any household member, including the sponsor's spouse, whose income is included as household income by a person sponsoring one or more immigrants. The contract must also be completed if a sponsor is relying on the assets of a household member who is not the sponsored immigrant to meet the income requirements. If the sponsored immigrant is a household member immigrating with a spouse or children, and is using his or her income to assist the sponsor in meeting the income requirement, he or she must complete and sign this contract as a "sponsored immigrant/household member."

By signing this form, a household member, who is not a sponsored immigrant, agrees to make his or her income and/or assets available to the sponsor to help support the immigrant(s) for whom the sponsor has filed an affidavit of support and to be responsible, along with the sponsor, to pay any debt incurred by the sponsor under the affidavit of support. A sponsored immigrant/household member who signs this contract agrees to make his or her income available to the sponsor to help support any spouse or children immigrating with him or her and to be responsible, along with the sponsor, to pay any debt incurred by the sponsor under the affidavit of support. The obligations of the household member and the sponsored immigrant/household member under this contract terminate when the obligations of the sponsor under the affidavit of support terminate. For additional information see section 213A of the Act, part 213a of title 8 of the Code of Federal Regulations, and Form I-864, Affidavit of Support Under Section 213A of the Act.

**Definitions:**

- 1) An "affidavit of support" refers to Form I-864, Affidavit of Support Under Section 213A of the Act, which is complete and filed by the sponsor.
- 2) A "sponsor" is a person, either the petitioning relative, the relative with a significant ownership interest in the petitioning entity, or another person accepting joint and several liability with the sponsor, who completes and files the Affidavit of Support under Section 213A of the Act on behalf of a sponsored immigrant.
- 3) A "household member" is any person (a) sharing a residence with the sponsor for at least the last 6 months who is related to the sponsor by birth, marriage, or adoption, *or* (b) whom the sponsor has lawfully claimed as a dependent or the sponsor's most recent federal income tax return even if that person does not live at the same residence as the sponsor, *and* whose income and/or assets will be used to demonstrate the sponsor's ability to maintain the sponsored immigrant(s) at an annual income at the level specified in section 213A(f)(1)(E) or 213A(f)(3) of the Act.
- 4) A "sponsored immigrant" is a person listed on this form on whose behalf an affidavit of support will be completed and filed.
- 5) A "sponsored immigrant/household member" is a sponsored immigrant who is also a household member.

Additional pages not shown.

### Sample Letter Showing Sponsor's Employment

Hitting the Road Trucking  
222 Plaza Place  
Outthereville, MA 90000

May 22, 200x

To Whom It May Concern:

Ron Goodley has been an employee of Hitting the Road Trucking since September 4, 200x, a total of over five years. He has a full-time position as a driver. His salary is \$45,000 per year. This position is permanent, and Ron's prospects for performance-based advancement and salary increases are excellent.

Very truly yours,

*Bob Bossman*

Bob Bossman

Personnel Manager

Hitting the Road Trucking

#### ii. Documents to Accompany Form I-864A

Form I-864A, the contract between your spouse and any household joint sponsors who are willing to contribute financially, also requires several supporting documents. These include not only proof of the joint sponsors' financial capacity, but proof that they live with and are related to the main sponsor.

- **Proof that the household joint sponsors have lived with the primary sponsor for the last six months.** To satisfy this requirement, you can include a copy of the rental agreement showing the household member's name and copies of items that show the same address as the sponsor (such as a driver's license, copies of school records, copies of utility bills, or personal correspondence).
- **Proof that the household joint sponsors are related to the primary sponsor (if they're not already listed as relations on the sponsor's tax return).** The best way to prove this family relationship is through birth certificates. For example, if the sponsor and household joint sponsor are parent and child, the child's birth certi-

cate will do. If they are brother and sister, providing both birth certificates will work (as long as the certificates show that they share the same parent or parents). If the birth certificates don't make the family relationships clear, look for other official documents such as court or school records to confirm the parent-child links.

- **Copies of the household joint sponsors' tax returns for the last three years, preferably IRS-generated tax transcripts.**
- **Proof of the household joint sponsors' employment, such as a letter from their employer confirming employment and recent pay stubs.**
- **A list of the household joint sponsors' assets if they must be used to meet the *Poverty Guidelines'* minimum.** There is no form to use for creating this list. The household joint sponsors should simply prepare (on a typewriter or word processor) a list or table with the following information:
  - a brief description of the item
  - its current value
  - remaining debt (if any), and
  - brief description of the document that has been attached to prove the sponsor owns the asset.
- **Proof of ownership of household joint sponsors' assets, if any were listed.**
- **A list of the benefit programs and dates of receipt if the household joint sponsor or their dependents have used financial need-based public benefits in the last three years.**

#### c. Proving Your Marriage Is Bona Fide

You must present evidence that your marriage is a real one, not a sham. Gather and photocopy as many of the following items as possible:

- rental agreements, leases, or mortgages showing that you have lived together and/or have leased or bought property in both spouses' names
- hotel and airplane receipts showing trips that you have taken together or to visit one another
- phone bills showing your conversations; copies of letters and emails
- your mutual child's birth certificate, or a doctor's report saying that you are pregnant



- joint bank statements
- joint credit card statements
- evidence that one spouse has made the other a beneficiary on his/her life or health insurance or retirement account
- auto registrations showing joint ownership and/or addresses
- joint club memberships
- receipts from gifts that you purchased for one another (these should be obvious gift-type purchases, like from a flower shop or candy store)
- letters from friends and family to each or both of you mailed at an address where you were living together
- photos of you and your spouse taken before and during your marriage, including at your wedding (the government knows wedding pictures can be faked, but some officers enjoy seeing them anyway). The photos should, if possible, include parents and other relatives from both families. Write the date taken and a brief description of what the photo shows on the back (or underneath, if you're photocopying them). Don't bother with the wedding or other videos, there won't be time or a space to view them.

#### d. The Medical Exam

To prove that you are not inadmissible for medical reasons, you will have to present the results of a medical exam done by a doctor approved by the U.S. consulate. Your appointment notice will give you complete instructions on where and when to visit the appropriate clinic or doctor. There will be a fee of about \$100.

When you go for your medical exam, make sure to bring the following:

- your visa appointment letter
- the doctor's fee
- your vaccination records, and
- photo identification—the doctor must make sure you don't send a healthier person in your place. You may also be requested to bring a passport-style photo.

The doctor will examine you, ask you questions about your medical and psychiatric history and drug use, and test you (including blood tests and chest

X-rays). Pregnant women can refuse the chest X-ray until after the baby is born if they have no symptoms of tuberculosis. When the laboratory results are in, the doctor will fill out the appropriate form and return it to you in a sealed envelope. DO NOT open the envelope—this will invalidate the results. The doctor should supply you with a separate copy of your results, or tell you whether any illnesses showed up.



If you want to plow through the government's technical guidance on the medical exam, it's published by the Centers for Disease Control (CDC). You can call 800-311-3435 and ask for a copy of the *Technical Instructions for Medical Examination of Aliens*, or they can be found at [www.cdc.gov/ncidod/dq/technica.htm](http://www.cdc.gov/ncidod/dq/technica.htm) on the Internet.

#### e. Where You'll Take Step Four Materials

When your final forms and documents are ready, don't mail them anywhere unless instructed to—the U.S. consulates in most countries require you to hold onto these until your visa interview.

If your spouse had to send the original of the Affidavit of Support (Form I-864) to the NVC, be sure your spouse makes a copy and sends or brings you the copy for the interview. The Affidavit of Support will be a big part of the discussion. Also, it will be up to you to review and understand the affidavit.

On the appointed day, you and your petitioning spouse (if he or she can possibly make it) will go to the consulate for an interview. See a detailed description of the interview and how to prepare for it in Chapter 13.

#### f. Using the Checklist for Step Four Interview Packet

This checklist notes every form, document, and other item included in the final packet that you and your spouse will need to assemble in preparation for your immigrant visa interview.



The Forms CD includes a copy of this checklist, and Appendix H includes a tear-out copy.

### Checklist for Appointment Packet

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Form DS 230-II (see Subsection a, above, for line-by-line instructions)</li> <li><input type="checkbox"/> Form I-864, Affidavit of Support (either the original, or the copy if you were required to send the original to the NVC for prior approval; see Subsection a, above, for line-by-line instructions)</li> <li><input type="checkbox"/> Documents to accompany Form I-864 (see Subsection b, above):             <ul style="list-style-type: none"> <li><input type="checkbox"/> A copy of your spouse/sponsor's federal income tax returns for the last three years, with W-2s</li> <li><input type="checkbox"/> Proof of your sponsor's current employment</li> <li><input type="checkbox"/> A list of assets, (the sponsor's and/or the immigrant's) if they're being used to meet the <i>Poverty Guidelines'</i> minimum</li> <li><input type="checkbox"/> Proof of ownership of assets (the sponsor's and/or the immigrant's), if any were listed</li> <li><input type="checkbox"/> If sponsor or sponsor's dependents have used financial need-based public benefits in the last three years, a list of the programs and dates of receipt</li> </ul> </li> <li><input type="checkbox"/> Form I-864A, Contract Between Sponsor and Household Member (only needed if sponsor's income is insufficient; see line-by-line instructions in Subsection a, above)</li> <li><input type="checkbox"/> Documents to accompany Form I-864A (see Subsection b, above):             <ul style="list-style-type: none"> <li><input type="checkbox"/> Proof that the household joint sponsors have lived with the primary sponsor for the last six months</li> <li><input type="checkbox"/> Proof that the household joint sponsors are related to the primary sponsor (if they're not already listed as relations on the sponsor's tax return)</li> <li><input type="checkbox"/> Copies of the household joint sponsors' tax returns for the last three years</li> <li><input type="checkbox"/> Proof of the household joint sponsors' employment</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Proof of ownership of household joint sponsors' assets, if any were listed</li> <li><input type="checkbox"/> If the household joint sponsor or their dependents have used financial need-based public benefits in the last three years, a list of the benefits programs and dates of receipt</li> <li><input type="checkbox"/> Additional documents to accompany forms:             <ul style="list-style-type: none"> <li><input type="checkbox"/> Original and one photocopy of your birth certificate (see Chapter 4, Section C, for how to obtain vital documents)</li> <li><input type="checkbox"/> Original and one photocopy of your marriage certificate (see Chapter 4, Section C, for how to obtain vital documents)</li> <li><input type="checkbox"/> If applicable, original and one photocopy of proof of termination of all previous marriages</li> <li><input type="checkbox"/> Financial documents to bring the Affidavit of Support up to date if it was prepared many months ago</li> <li><input type="checkbox"/> Evidence that your marriage is bona fide (see Subsection c, above)</li> <li><input type="checkbox"/> Original INS or USCIS notice of approved I-130 (Form I-797)</li> <li><input type="checkbox"/> Your passport, valid for at least six months (because you have six months in which to enter the United States)</li> <li><input type="checkbox"/> Two color photographs of you (see instructions on Form M-378 in Appendix E)</li> <li><input type="checkbox"/> Police Certificate, if available in your country (see Appendix E for a list of countries where these are unavailable)</li> <li><input type="checkbox"/> Military records, if applicable</li> <li><input type="checkbox"/> Court and prison records, if applicable</li> <li><input type="checkbox"/> Medical exam, in an unopened envelope (see subsection d, above)</li> </ul> </li> <li><input type="checkbox"/> Fees (currently \$335).</li> </ul> |
|--|---|

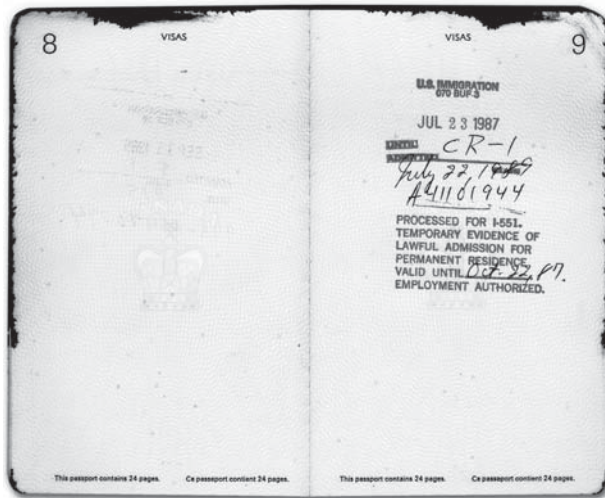
## 5. Step Five: At the Border

Assuming all goes well at the visa interview, you will be given an immigrant visa. But wait—you're not a U.S. resident yet. You'll have six months to use the visa to enter the United States.

At the border, airport, or other port of entry a U.S. border officer will open the sealed envelope containing your visa documents and do a last check to make sure you haven't used fraud. The border officer has expedited removal powers, which means he or she can turn you right around and send you home if he or she sees anything wrong in your packet or with your answers to his questions. When the officer is satisfied that everything is in order, he or she will stamp your passport to show that you're now a U.S. resident (see reproduction of this stamp below; yours will probably have slightly different codes written on it).

In the unlikely event that you have been married for less than two years on that day, the border officer will make you a conditional resident. In about 21 months, conditional residents will have to file an application with USCIS to convert to permanent residency. For more information, see Chapter 16, Section G.

Your actual green card will arrive several months later.



**Sample Conditional Residence Stamp**

## B. How to Have Your Children and Pets Accompany You

Although your whole family cannot immigrate right now, U.S. laws and regulations do recognize the need for certain of your loved ones to accompany you to the United States and live there with you, including your children and certain pets.

### 1. Children of the Immigrant Spouse

Your unmarried foreign-born children, whether they are the biological children or the stepchildren of your U.S. permanent resident spouse, may be eligible to obtain green cards. It won't happen automatically, however. A complete review of the application procedures for children is outside the scope of this book. However, once you've filled out all the paperwork described in this book, you will have a good basis of knowledge with which to fill out these forms for your children; or you might be more comfortable using a lawyer.

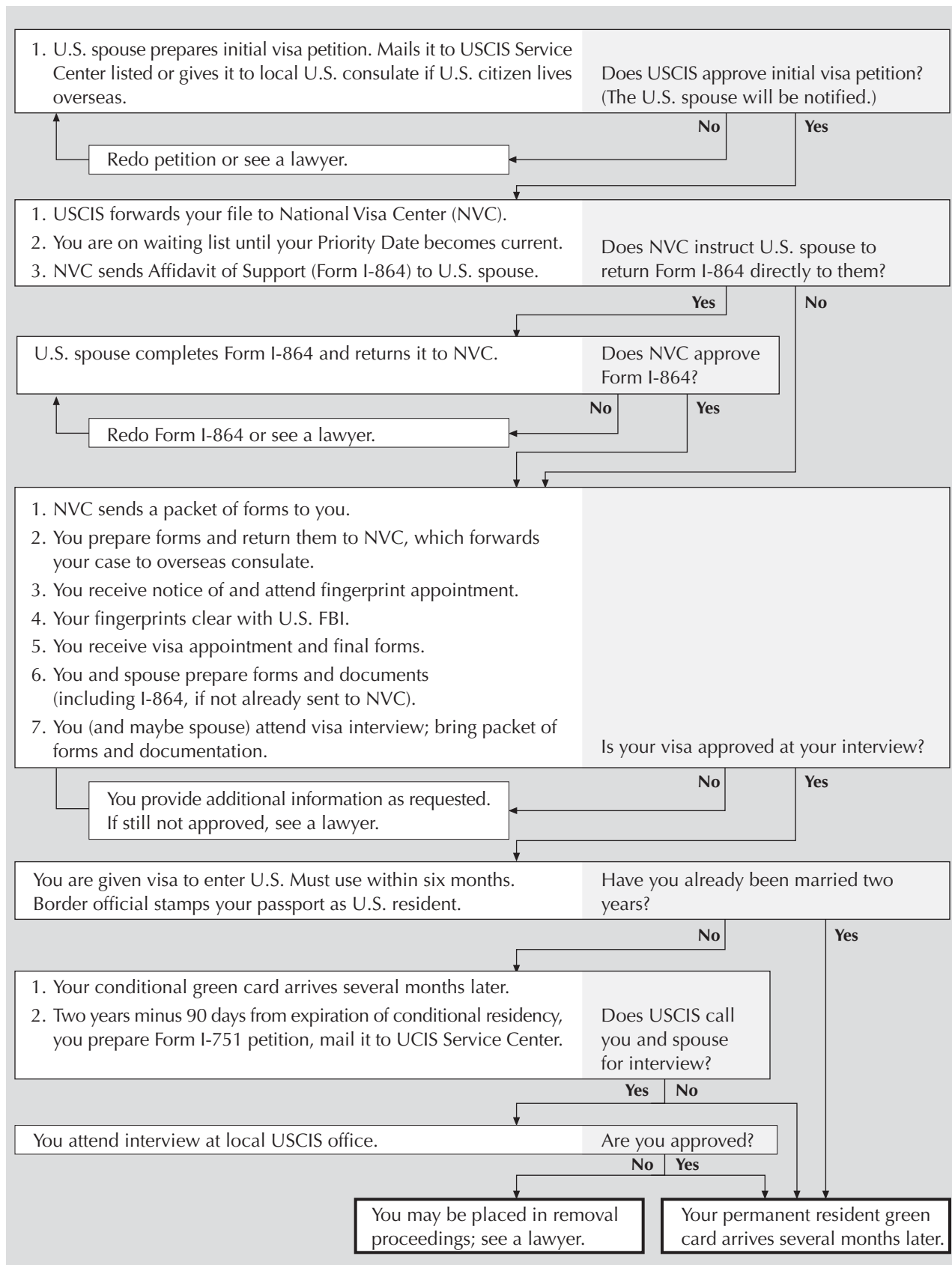
See Chapter 2, Section B, for a review of which of your children might be eligible to immigrate. After their Priority Dates become current, your children will have to go through the identical steps described in Section A, above. You will also have to prove that the children are not inadmissible and that they will be financially supported along with you.

#### a. Application Procedures for Children

This section contains an overview of the procedures for immigrating children. The following is intended as guidance for people who feel comfortable undertaking this process on their own.

To start the process (Step One), your U.S. permanent resident spouse will need either to name the children on your Form I-130 or fill out a separate visa petition (Form I-130) for each child. It is particularly advisable to fill out a separate Form I-130 for children who are likely to turn 21 in the next five years if your spouse might apply for U.S. citizenship (see discussion in Subsection d, below). In cases where

## Applying for Immigrant Visa Overseas (Spouses of Permanent Residents)



your spouse does file a separate I-130 for a child, it is unnecessary to include a Form G-325A or photos (these are only required of spouses, not children). But do include your and your spouse's marriage certificate, as well as the children's birth certificates, to show the family relationships.

If your children have the same Priority Date as you, they will wait the same amount of time for a visa to become available. However, children who turn 21 before their Priority Date becomes current will automatically drop into a separate waiting category (2B); and children who get married will drop out of the process altogether.

After you've received your packet of materials from the NVC, you will have to send the consulate a set of the same forms for your children as you filled out for yourself, with the exception of the OF-169 (where the children's names can be listed). The National Visa Center should send you separate forms for each child. If they don't, ask them for separate packets or simply make photocopies of the forms sent to you.

When it's time for the final packet of forms and your interview, the children will have to submit all

the same forms and documents as you, except they can simply submit photocopies of the Affidavit of Support (Form I-864). Of course, you'll want to make sure that their names are listed on the I-864 and that the income and assets shown are sufficient to cover them (see discussion of income requirements in Chapter 3). Children under the age of 16 will not need to submit a police certificate. You can expect to attend your interviews together, though the children probably won't have to answer more than one or two questions.



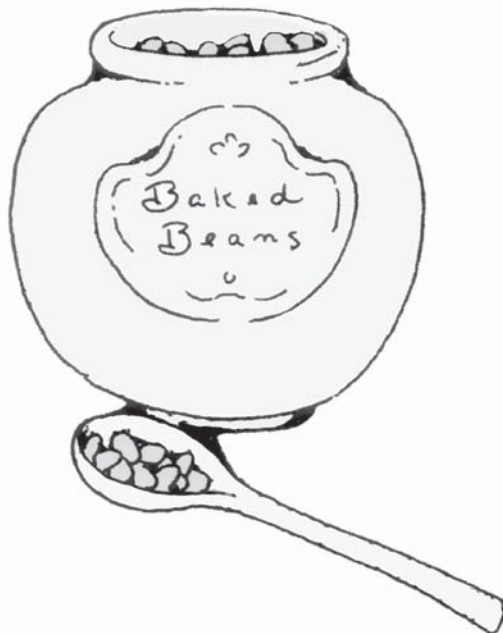
**Check your own country's law on taking your children if their other parent is staying behind.**

If you will be bringing children to the United States who are not the biological children of your U.S. spouse, or who became the adopted children of another person, it will be up to you to comply with any custody requirements. Even if the children are legally in your custody, you may need to get written consent from the other parent for you to take the children out of the country.

## **b. What Happens When a Child Beneficiary Turns 21**

If there is a chance that your child might turn 21 before his or her Priority Date becomes current, watch out! The minute a child hits the 21st birthday, he will automatically drop into a different visa category, from 2A to 2B. (The child can, however, subtract from his or her age the amount of time it took USCIS to approve the initial visa petition.) As a result, he'll face a wait of up to a few years before being eligible for a visa. This problem is known as "aging out." (However, if your child turns 21 after your spouse has become a U.S. citizen, his prospects may be brighter, as discussed below in Subsection d and Chapter 2, Section B.)

It can be very stressful when a child beneficiary is close to getting his or her visa or green card and is about to turn 21. But until your family's Priority Date has become current, or your spouse becomes a U.S. citizen, there's nothing you can do.



### **Massachusetts**

State Bean: Navy Bean

Massachusetts is known as the Baked Bean State



### c. What Happens When a Child Beneficiary Marries

In preference categories 2A (children of permanent residents, under age 21) and 2B (children of permanent residents, over age 21), the beneficiaries must be unmarried. If your children marry, their beneficiary status is revoked forever. Their only hope is for you or your spouse to become a U.S. citizen and file a new petition for them later.

If you plan to bring along your children in either the 2A or 2B categories, make sure to advise them not to marry until after they get their green card. (USCIS may not find out about the marriage now, but it often catches such cases when the immigrant applies for U.S. citizenship—and then it strips them of their green card.)

### d. What Happens to Your Children When Your Spouse Becomes a U.S. Citizen

As you remember from Section A2, above, if your spouse becomes a U.S. citizen it will help you immigrate more quickly. The same is true for your children's immigration—but there's a twist. Children of U.S. citizens need to have their own visa petitions (Forms I-130) on file with USCIS in order to immigrate as children of a U.S. citizen. They can't enjoy the benefits of that parent's new citizenship if they are merely named on their immigrating parent's petition.

When this whole process began, your spouse may have simply entered your children's names on the visa petition for you—which would have been enough for them to immigrate if he or she had remained a permanent resident. To put this in more technical terms, your children were eligible to immigrate as your derivative beneficiaries when your spouse was a permanent resident, but once your spouse became a U.S. citizen, they lost their derivative beneficiary status. They now need to have visa petitions of their own.

Fortunately, it's not too late for your spouse to file separate visa petitions for your children even after he or she becomes a citizen. So long as the

children are still unmarried, under age 21, and are your spouse's natural children or legal stepchildren (that is, the marriage took place before they turned 18), they qualify as immediate relatives just like you. As immediate relatives, they will be able to immigrate at the same time as you. It usually takes at least few months for the new visa petitions to be approved, but for most children, it should all work out in the end. However, there are three groups of children who are, to varying degrees, still left out in the cold: those who have married, those who are not your spouse's legal stepchildren, and those who have turned 21.

**Children who have married.** Your children who have married could not have immigrated with you when your spouse was a permanent resident, so your spouse's citizenship doesn't actually make their situation worse. In fact, it could improve their situation if your spouse is the children's natural father or legal stepfather, because your spouse can file a visa petition for them in the Third Preference category.

**Children who are not your spouse's legal stepchildren.** As part of filing new visa petitions for your children, your spouse will have to prove that he or she has a direct relationship with each child, either as natural parent or legal stepparent. To be their legal stepparent, your spouse will have to show that your marriage took place before the child turned 18. If it didn't, then that child cannot immigrate until you yourself become a permanent resident and file a Second Preference visa petition for your child.

**Children who have turned 21.** If your child has turned 21 and no separate visa petition was filed for him or her, you're in for some extra work. As with your other children, your U.S. citizen spouse can file a new, separate visa petition if he or she is the child's natural parent or legal stepparent—but if you don't alert them to the situation, your child won't become an immediate relative like you. Instead, the child will be put into the First Preference visa category, which is subject to annual quotas. The child will get a Priority Date, but it will be at the very end of the First Preference waiting list.

**EXAMPLE:** Ricardo, a U.S. permanent resident, filed an I-130 visa petition for his Mexican wife

Soledad and their four children on January 2, 2001. Soledad got an approval notice showing her January 2, 2001 Priority Date. Because the children were named on the I-130 visa petition and Ricardo was a permanent resident, USCIS knew that the children were derivative beneficiaries and shared Soledad's Priority Date. But on February 3, 2004 Ricardo was sworn in as a U.S. citizen. No more derivative beneficiaries for this family; Ricardo must file a separate I-130 for each child. He does so, on February 10, 2004. That works fine for three of his children, who are under age 21—as minor, unmarried children of a U.S. citizen, they are still immediate relatives and immediately eligible for a visa, just like their mother. But the fourth child, Jorge, has since turned 21. Jorge's Priority Date is now February 10, 2004. If you look on the *Visa Bulletin* chart in Section A2, above, you'll see that in his category, Mexico First Preference, the current Priority Date is October 15, 1994. Jorge is facing an approximate ten-year wait for a visa. If Ricardo had planned ahead and filed a separate I-130 for Jorge in 2001 when he filed for the rest of the family, he could have shaved at least three years off Jorge's wait.

But this isn't fair! True enough. Luckily, there is a remedy for children in this situation. When your U.S. citizen spouse files the new visa petition, he or she can ask the USCIS Service Center not to put the child at the bottom of the waiting list, but to give him or her the same Priority Date as the rest of the family, even in this new category. In other words, your spouse asks USCIS to pretend that a separate I-130 visa petition was submitted for the over-21-year-old at the same time that the visa petition for the whole family was submitted, perhaps years ago.

This is called “recapturing” a Priority Date. Below is a sample letter showing how to ask for a recapture. The petitioner also needs to include complete copies of the original I-130 visa petition, the original

INS or USCIS approval notice showing the family's old Priority Date and the petitioner's citizenship certificate.

Approval of recaptured dates is supposed to be automatic. Unfortunately, the USCIS Service Centers aren't used to this procedure and may pay no attention to your request—even if you write the most compelling letter and include complete documentation. You might get an approval notice showing a new Priority Date rather than your family's old one. Your only recourse would be to write many letters trying to get USCIS to correct the date.



**Plan ahead—submit separate I-130 visa petitions for any children who will soon turn 21.**

If you are at the beginning of the immigration process, have children who may turn 21 before the process ends, and your spouse is likely to apply for U.S. citizenship, you can avoid the hassles involved in recapturing Priority Dates. Your spouse should simply file separate petitions for them from the outset.

## 2. Your Pets

Good news for your dog and cat, who may not have learned to sign their names yet—they won't need a visa. Bringing pets into the United States is not an immigration law matter. But before bringing any pets to the United States, check into U.S. customs restrictions. In general, pets will be allowed in if they are in good health and have had all the proper vaccinations. Some restrictions apply, however. For example, monkeys aren't allowed into the United States at all. Check with your local U.S. consulate for details, or read more at [www.customs.gov](http://www.customs.gov) (on the home page, click “Travel,” then “leaving and arriving in the United States,” then look on the Publications list and click “Pets and Wildlife”).



For what to do after you have obtained your visa and entered the United States, see Chapter 16.

## Letter Requesting Recaptured Priority Date

111 Seaside Lane  
Orlando, FL 32801

June 1, 200x

USCIS Texas Service Center  
P.O. Box 850919  
Mesquite, TX 75185-0919

*[See Appendix C for the address of the USCIS Service Center serving your geographic region.]*

RE: Petitioner: Ricardo Torres  
Beneficiary: Jorge Torres  
I-130 Visa Petition with Priority Date Recapture Request

Dear Sir/Madam:

I am the Petitioner named above. Enclosed please find an I-130 visa petition for the above-named Beneficiary (my son) with supporting documents, including:

- 1) Copy of my son's birth certificate
- 2) Copy of his mother's and my marriage certificate
- 3) Copy of my citizenship certificate
- 4) Fee of \$130 (money order).

*In addition, please note that I am requesting a recapture of an earlier Priority Date for this application. My son was formerly a Derivative Beneficiary on an approved visa petition that I filed for his mother in 2001, with Priority Date January 2, 2001. I recently became a U.S. citizen, and so my son lost his derivative status. Please grant my son the earlier, January 2, 2001, Priority Date on the approval of this I-130 petition. In support of this request, I also enclose the following:*

- 1) Copy of original I-130, showing my son's name
- 2) Copy of INS notice approving this I-130, with January 2, 2001, Priority Date.

Thank you for your attention to this matter.

Very truly yours,

*Ricardo Torres*

Ricardo Torres

## Fiancés in the U.S. Engaged to U.S. Citizens

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If you are in the United States—legally or illegally—and are engaged to marry a U.S. citizen, you are one step away from being, in immigration law lingo, an immediate relative. Of all the different classes of applicants for U.S. visas, immediate relatives will get them the quickest.

That one step, however, is to get married. Once you are married, a green card will be available to you as soon as you can get through the application procedures. There are no limits to the numbers of immediate relatives allowed to apply for permanent residence each year, and the only waiting period is the time it takes for your paperwork to be processed by the U.S. immigration authorities.

If you marry and apply as an immediate relative, the application process you'll use and where you'll live during the process—in the U.S. or abroad—depends on whether you entered the United States legally or illegally. For example, if you entered legally with a tourist visa but stayed beyond the expiration date, you have entered the country legally and may apply for your visa here. On the other hand, if you entered without permission, such as by crossing at an unguarded point on the U.S. border, you entered illegally and must apply from abroad. Start by reading Section A to see whether your entry is considered legal or illegal, then move on to the sections that match your current situation.

Because of the benefits of being an immediate relative, there is very little reason to delay your marriage. However, this chapter will discuss all your immigration options, including returning home and applying for either a fiancé visa or a marriage-based immigrant or nonimmigrant visa. Once you decide what procedure you want to use, you'll be directed to the appropriate chapter to begin the process.

## A. Did You Enter Legally or Illegally?

If you entered the United States with permission of the U.S. authorities, you entered legally. Whether you got that permission in advance or were simply allowed in when you arrived, the important thing is that you were personally met and allowed to enter by an officer of the U.S. border control. This could

occur either at the border itself or at some other port of entry such as an airport, seaport, or bus station. The usual ways people enter legally are:

- with a visa, such as a tourist, student, or temporary worker visa
- with a border crossing card (a special pass allowing regular entries), and
- under the Visa Waiver Program, where citizens of certain countries are allowed to enter the U.S. as tourists by showing their passport, without first obtaining an entry visa.

An illegal entry is, naturally, the opposite of a legal entry. People entering illegally have failed to obtain permission to enter. They may pay someone to sneak them across the U.S. border, wait until the dead of night and find an unguarded point on the U.S. border, or conceal themselves in the trunk of someone's car. USCIS says that they entered “without inspection,” which means that they weren't personally met and approved for entry by a U.S. border control official. (USCIS refers to such people as “EWIs,” pronounced “ee-wee,” which stands for entry without inspection.) People who entered the United States without inspection, or illegally, will have a very difficult time obtaining a green card.



If you entered the United States by crossing the border illegally, skip ahead to Section C.

## B. Fiancés Who Entered the U.S. Legally

This section explains the entry options for foreign nationals who entered the United States legally and still live there. If this describes your situation, you have a choice among three immigration paths:

- Get married and immediately apply for your green card at a USCIS office (even if the expiration date of your visa has passed). This path is explained below in Section 1.
- Leave the United States before you have overstayed your visa by six months or more and apply at a U.S. consulate to return on a fiancé visa. This choice is explained below in Section 2.



- Leave the United States before you have overstayed your visa by six months or more, get married, and apply at a U.S. consulate to return on an immigrant visa (green card) or nonimmigrant visa (a special version of the fiancé visa for married couples). This option is explained below in Section 3.



**If you overstay your visa.** If you have stayed in the United States without permission for six months or more at any time since April 1, 1997, you shouldn't leave at all until you have a green card. That's because you could be barred from returning for three or ten years, depending how long you overstayed. See Chapter 2, Section A, for more on this issue.

## 1. Overview of the U.S. Marriage-Based Green Card Option

If you and your U.S. citizen fiancé get married, you will be one of few immigrants eligible to stay in the United States while you apply and wait for your green card. The fact that you entered the United States legally and that your spouse is a U.S. citizen is a magic combination. It allows you to get your green card through a procedure called Adjustment of Status. Using this procedure, you can apply for permanent residence without leaving the United States, even if you have stayed past the date when you were originally supposed to leave (which is most likely the expiration date of your visa).

**EXAMPLE:** Marbelita came to the United States in May 2004, on a tourist visa. While enjoying the view from the Empire State Building, she struck up a conversation with Bill, a U.S. citizen. They fell in love, and Marbelita couldn't bear to leave when her tourist visa expired in July. She and Bill married in August. Although she is now in the United States illegally, the combination of her legal entry and Bill's status as a U.S. citizen allows her to apply for her green card (Adjustment of Status) at a local USCIS office. As soon as Marbelita submits that application, her stay will become legal and she and Bill can live to-

gether in the United States while awaiting approval of her green card. Of course, there are other hurdles they must cross, including convincing USCIS that their marriage is real and not simply a way for Marbelita to stay in the United States.

There are many benefits to staying in the United States during the application process. You will avoid being separated from your spouse and will receive a permit to work while you wait to attend the final green card interview at a local USCIS office. Although your spouse will be required to accompany you to that interview (which is not required of overseas applicants), this is actually an advantage, both for moral support and because a large part of the discussion will concern your spouse's ability to support you financially. And unlike overseas interviews, at a stateside interview you can bring an attorney with you if your case has become complicated during the application process. For instance, if you realize that you might fall into a ground of inadmissibility, you'll need a lawyer's help to argue that it doesn't apply.

### a. Entering on a Temporary Visa Might Pose a Problem

If you used a temporary visa—such as a tourist visa—to enter the United States, planning all along to get married, you might find yourself facing accusations of visa fraud if you apply to adjust status in the United States. Particularly if you knew your spouse before arriving in the United States, and you used a temporary visa to enter, USCIS is likely to be suspicious. At the interview where your green card would normally be approved, USCIS might question you about whether your real intention when you arrived was to apply for permanent residence after your marriage. Unless you entered on a fiancé visa, the discovery that this was your real intention will lead USCIS to demand that you file an additional application requesting a waiver or forgiveness of your visa fraud. (See Chapter 1, Section B2, if you think you might be in this category.)

Of course, if you met your spouse after you arrived in the United States, this won't be a problem. And even for other couples, uncertainties about their marriage plans, as well as the length of time they waited to get married, often satisfy USCIS that they didn't misuse an entry visa.

### b. Two-Year Testing Period for New Marriages

You must be married for two years to obtain a permanent green card. Since most people will apply for their Adjustment of Status soon after marrying, they will first be given a conditional green card, which is valid for only two years. You won't be kicked out of the country after the two years—provided you don't forget to file the next application. This is an application for a permanent green card, which sometimes involves an interview to allow USCIS to take a second look at whether your marriage is real. (See Chapter 16, Section G, for more on this issue.)

### c. Your Children

Your unmarried children under age 21 may also be eligible to submit applications to adjust status along with you.



**If you are certain that you wish to marry and adjust status in the United States, go straight to Chapter 11 for instructions on the first step, the visa petition to be filed by your spouse.**

## 2. Overview of the Fiancé Visa Option

As long as you leave the United States before overstaying your visa by six months or more, your planned marriage to a U.S. citizen should qualify you for a fiancé (“K-1”) visa in order to return. (See Chapter 2, Section B, for the eligibility requirements for a fiancé visa.) If you overstay by six months or more or have stayed in the United States illegally for six continuous months at any time after April 1997, however, this option disappears. You will need a

waiver (official government forgiveness) of your illegal stay in order to return before three or ten years are up. You won't be eligible for a waiver unless you're married—these waivers are not available to mere fiancés of U.S. citizens.

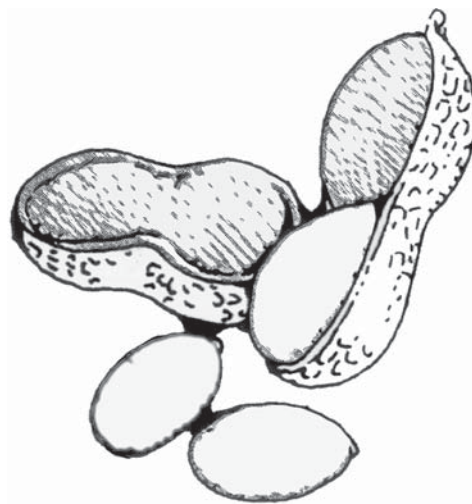
If you decide to leave and apply for a fiancé visa, it will allow you to enter the United States, marry within 90 days, and apply for your green card in the United States. Your unmarried children under age 21 will be eligible to accompany you. There are no quotas or limits on the number of people who can obtain fiancé visas and subsequently green cards through marriage to a U.S. citizen. A fiancé visa usually takes at least six months to obtain.

### a. For a U.S. Marriage Only

A fiancé visa gives you no choice but to hold your marriage ceremony in the United States. Couples often ask whether their overseas marriage really counts, or wonder why they can't just get married for a second time after entering on a fiancé visa.

Unfortunately, once you're legally married, no matter where the marriage occurred, you no longer qualify for a fiancé (K-1) visa. You must apply for U.S. entry as the spouse of a U.S. citizen.

However, married people can use a type of fiancé visa called a “K-3,” which is intended to save them a



**Georgia**

State Crop: Peanut

little time. To find out more about K-3 visas, see Section 3, below.



**Wedding ceremonies that don't result in legally binding marriages won't stand in your way.**

If you don't feel right leaving home unmarried, see if you can arrange for a religious or other ceremony that will not be legally recognized or registered in your country. USCIS does not recognize these as valid marriages. You will need to have a legal marriage in the United States once you get here.

### **b. The Green Card Application Will Be Separate**

Fiancés wishing to live in the United States will need to apply for their green card within the 90 days they are allowed to stay in the United States on their fiancé visa, using a procedure called Adjustment of Status. This application procedure usually takes at least a year to complete and involves even more paperwork than the fiancé visa.



**If you are certain that you wish to leave the United States and apply for a fiancé visa overseas, go straight to Chapter 5, Section G, for further instructions.** This petition can be filed before or after you leave the United States.

## **3. Overview of the Marriage-Based Visa (Consular) Option**

For most married applicants, Adjustment of Status in the United States is the preferred way to obtain permanent residence. However, a second option for people who haven't overstayed their visa by six months or more is to leave the United States and apply for either a green card or a nonimmigrant, K-3 fiancé visa at a U.S. consulate overseas.

Although the procedural steps to apply for a green card are very similar to those for obtaining a fiancé visa, the application itself is somewhat more demanding. At the final interview, you can be accompanied by your spouse if you wish, but not by an attorney.

It makes sense to apply for your U.S. residency or a K-3 visa at a consulate only if doing so will significantly speed up the green card approval process. The Adjustment of Status process in the United States usually takes at least a year, sometimes more. The application process for a green card through a consulate also usually takes at least a year, but some consulates are much more efficient and will approve an application within months. The application process for a K-3 nonimmigrant visa takes only about six months, but it doesn't get you a green card—it only gets you back into the United States, where you have to spend another year applying for your green card. That means it's probably not a good option for you.

Contact your local USCIS office and the U.S. consulate in your home country (and ask other immigrants about their experience with that consulate) to find out how long the USCIS office and consulate take for green card application and approval.

Even if your overseas U.S. consulate is very efficient and can deliver your green card faster, it may not be worth the trip. No matter how efficient the U.S. consulate is, the law requires that you stay in your home country for a minimum of three months before your approval. That means a minimum three-months' separation from your spouse. And if your application gets delayed or the consulate asks you to supplement your application before approving it, your overseas stay could last even longer.

However, some immigrants may have special reasons for needing their green card quickly. The example below illustrates the most likely scenario.

**EXAMPLE:** Asma is in the United States on a student visa and recently married Fred, a U.S. citizen. Asma's elderly mother lives alone in Ethiopia, under very difficult circumstances. Asma is her mother's only hope to leave Ethiopia. Once Asma becomes a U.S. citizen, she can file an immediate relative petition for her mother to immigrate. But Asma can't apply for U.S. citizenship until she has been a U.S. resident for a full three years—so she needs that green card approval as soon as possible. In Asma's case, it may be worthwhile to compare processing times between her local USCIS office and the U.S. consu-

late in Ethiopia. However, if Asma has stayed past the expiration of her student visa by six months or more, she should not even consider leaving the United States to apply for her green card, which would expose her to penalties of three or ten years spent outside the United States, depending on how long she overstayed.



#### **Carry proof of when you depart the United**

**States.** If you decide to apply for your green card or a K-3 visa at a U.S. consulate, your history of U.S. visits will trigger a request that you prove you left on time. Collect and keep all evidence, such as your plane tickets, store receipts, medical records, credit card statements, and anything else relevant. (See Chapter 2, Section A, for the rules on and penalties for overstaying a U.S. visa by six months or more.)

#### **a. Two-Year Testing Period for New Marriages**

You must be married for two years to obtain a permanent green card. Since most people will apply for their immigrant visa and green card soon after marrying, they will be given only a conditional green card, which is valid for two years. You won't be kicked out of the country after the two years—provided you don't forget to file the next application. This is an application for a permanent green card, which sometimes involves an interview to allow USCIS to take a second look at whether your marriage is real. (See Chapter 16, Section G, for more on this issue.)

#### **b. Your Children**

Your unmarried children under age 21 may also be eligible to submit applications for immigrant visas along with you.



**If you are certain that you wish to leave the United States and apply overseas, go straight to Chapter 7 for instructions on the first step, the visa petition to be filed by your spouse.** This petition can be filed before or after you leave the United States.

#### **4. If You Have Children 18-21**

If you have children between the ages of 18 and 21 who are not the biological children of your spouse and you want to bring them to the United States, you should, if possible, leave and apply for a fiancé visa. Due to a nonsensical twist in the immigration laws, children under 21 can accompany a fiancé on his or her visa, but only children under 18 can accompany a just-married spouse on an immigrant visa or apply for a green card.

Don't even think of leaving the United States if, after April 1, 1997, you or your children have overstayed your right to be there by six months or more, on this visa or any other visa. You could be barred from reentering the United States for up to ten years under these circumstances. (See the discussion of time bars in Chapter 2, Section B.)

#### **C. Fiancés Who Entered the U.S. Illegally**

This section explains the immigration choices for foreign nationals who entered the United States illegally and still live there. If you've come to the United States illegally more than once, spent a total of a year or more during your previous visits, and/or were deported at the end of a visit, see an attorney before going any farther. You may be permanently barred from immigrating to the United States. (See Chapter 2, Section A, for farther review of the permanent bar.)

Assuming these difficulties don't apply to you, there are three options for you to consider if you entered the United States illegally and are engaged to marry a U.S. citizen. You can:

- Marry, stay, and see if you will be allowed to adjust your status to permanent resident in the United States. This path is explained below in Section 1.
- Marry and leave, then apply for an immigrant visa to return. If you stayed illegally in the United States for more than six months, accompany your application with a request for a waiver (forgiveness) of your illegal stay. If the

waiver is denied, you may be barred from returning for three or ten years. This choice is covered in Section 2, below.

- Leave the United States before you have been here illegally for six months and apply at a U.S. consulate to return on a fiancé visa. This option is described in Section 3, below.

## 1. Marry and Adjust Status in the United States

As the fiancé of a U.S. citizen, you are theoretically one step away from being an immediate relative—an immigrant who is immediately eligible for a green card. You will be an immediate relative as soon as you get married. Unfortunately, your eligibility may not get you a green card anytime soon. The trouble is that only certain categories of immigrants are allowed to apply for their green card in the United States (using the procedure called Adjustment of Status). People who entered the United States illegally are not among them.

However, a very few people might be lucky enough to fall into an exception, based on having started the application process before the laws changed and made them ineligible. You may be eligible to adjust status in the United States if an employer or a family member of yours (whether it was your spouse or someone else) filed an immigrant visa petition (Form I-130 for family members) on your behalf either:

- before January 14, 1998, or
- between January 14, 1998 and April 21, 2001, if you can also prove that you were physically present in the United States on December 21, 2000.

If your visa petition was approved, or was denied only because of a mistake by USCIS, you may be allowed to adjust status in the United States. (For more details on this issue, see Chapter 2, Section A.) If you have the I-130 petition on file as described above, you have a ticket to adjust your status and get your green card without leaving, even though you entered the United States illegally.

If you fall into this exception, by all means get married and file for Adjustment of Status in the United States. This is especially true if you have stayed in the United States for more than six months. If you were to leave and try to apply for your green card at a U.S. consulate overseas, the consulate could punish your illegal stay by preventing your return to the United States for three or ten years.



If you are sure this option will work for you, proceed directly to Chapter 11, Section D, for instructions on how to begin the application process.

## 2. Marry, Leave, and Apply for an Immigrant Visa to Return

If you do not fall into one of the exceptional categories of immigrants who are allowed to stay in the United States to use the Adjustment of Status procedure, you must decide whether you can get a visa overseas at a U.S. consulate. This will depend on how long you have stayed illegally in the United States. If you have not stayed in the United States more than six months, proceed to Subsection a, below. If you have stayed in the United States illegally longer than six months, proceed to Subsection b below.

### a. If You Have Stayed Illegally for Fewer Than Six Months

If you don't fit into the exceptions described in Section C1 above, but you haven't yet stayed in the United States illegally for more than six months, your safest bet is to leave before that date rolls around. Leaving now will at least protect you from being prevented from returning to the United States when you visit the U.S. consulate overseas to apply for your green card.

After leaving, you can get a marriage-based immigrant visa because of your immediate relative status (spouse of a U.S. citizen). This may mean many months of separation from your spouse while you wait overseas for your green card to be approved (you are required to stay a minimum of 90 days).



But months of separation now might be better than ten years of separation later, if you stay too long illegally in the United States.



#### **Carry proof of when you depart the United**

**States.** If you decide to apply for your green card at a U.S. consulate, your history of U.S. visits will trigger a request that you prove how much time you spent there. Collect and keep all evidence, such as your plane tickets, store receipts, medical records, credit card statements, and anything else relevant. (See Chapter 2, Section A, for the rules on and penalties for staying in the U.S. illegally for six months or more.)



If you are sure you will use this option, go to Chapter 7 for further instructions on your immigration process.



If you are ineligible to adjust status and definitely have a time bar problem, skip to Section 3 below.

### **b. If You Have Stayed Illegally for More Than Six Months**

If you are not eligible to apply for a green card (adjust status) in the United States upon marrying, and you have stayed illegally in the United States for more than six months, you are in a tough situation. You can't get a green card by staying in the United States; but if you leave, you face being barred from reentering the United States—for three years if your stay was between six months and a year, and for ten years if your stay was more than one year.

You should see an attorney, and not just any immigration lawyer. Look for an attorney who has actual experience with this problem. The attorney can help you decide whether you should risk leaving the United States to apply for a marriage-based visa and ask the U.S. government to forgive your illegal stay. With a waiver, you can return to the United States as soon as you get through the visa application process, which usually takes about one year. Be aware that some experienced immigration attorneys may not have requested these waivers before. You

will have to marry to apply for this waiver—they aren't available to fiancés of U.S. citizens.

Unfortunately, there's no guarantee that you'll get a waiver. You'll have to prove that the denial of your visa would cause extreme hardship to your U.S. spouse or children—and when the law says extreme, it means much more than the sadness your spouse and children will feel at your being thousands of miles away. The classic case of extreme hardship is someone whose U.S. citizen spouse has severe medical problems that require the other spouse's constant attention.

There is another option, which we don't recommend. You could stay in the United States illegally, hoping that the immigration laws change in your favor and make you eligible for a green card. Many couples have done this, but it is a huge gamble. Recent changes in the immigration laws have made them harsher, not gentler, on immigrants; and there is no sign that this trend will change. But none of us has a crystal ball, and some families find it unthinkable to separate now, come what may later. If you take this option, however, you must be aware that you will likely never obtain legal residence in the United States and will face the ever-present possibility of being caught, deported, and prevented from reentering the United States for at least ten years.

### **3. Leave Before Six Months and Apply for a K-1 Fiancé Visa to Return**

If you have been in the United States for fewer than six months and you have not married, you can consider leaving and applying for a K-1 fiancé visa to return. Stay over six months, however, and this option disappears. You will need a waiver (official government forgiveness) of your illegal stay in order to return before three or ten years are up. These waivers are not available to fiancés—as opposed to spouses—of U.S. citizens.

Your planned marriage to a U.S. citizen should qualify you for a fiancé visa. (See Chapter 2, Section B, for the eligibility requirements.) A fiancé visa will allow you to enter the United States, marry within

90 days, and apply for your green card in the United States. Your unmarried children under age 21 will be eligible to accompany you.

There are no quotas or limits on the number of people who can obtain fiancé visas and subsequent green cards through marriage to a U.S. citizen. A fiancé visa usually takes at least six months to obtain.

#### a. For U.S. Marriage Only

A K-1 fiancé visa gives you no choice but to hold your marriage ceremony in the United States. Couples often ask whether their overseas marriage really counts, or wonder why they can't just get married for a second time after entering on a fiancé visa. Unfortunately, once you're legally married, no matter where the marriage occurred, you no longer qualify for a K-1 fiancé visa and you must apply for U.S. residency as the spouse of a U.S. citizen. You should also know about an alternative visa, call the K-3 visa, available to already-married couples. The K-3 visa is a special form of fiancé visa, which allows a married immigrant to enter the United States relatively quickly, as a temporary nonimmigrant, and then complete a green card application process after arriving in the United States. For more information on K-3 fiancé visas, see Chapter 7.



#### **Wedding ceremonies that don't result in legally binding marriages won't stand in your way.** If

you don't feel right leaving home unmarried, see if you can arrange for a religious or other ceremony that will not be legally recognized or registered in your country. USCIS does not recognize these as valid marriages. You will need to have a legal marriage in the United States once you get here.

#### b. The Green Card Application Will Be Separate

Fiancés wishing to live in the United States will need to apply for their green card during the 90 days they

are allowed to stay in the United States on their fiancé visa, using a procedure called Adjustment of Status. This application procedure usually takes at least a year to complete and involves even more paperwork than the fiancé visa.

### 4. If You Have Children 18-21

If you have children between the ages of 18 and 21 who are not the biological children of your spouse, and you want to bring them to the United States, you should, if possible, leave and apply for a fiancé visa. Due to a nonsensical twist in the immigration laws, children under 21 can accompany a fiancé on his or her visa, but only children under 18 can accompany a just-married spouse on an immigrant visa or apply for a green card.

Don't even think of leaving the United States if you or your children have stayed there illegally for six months or more, at any time since April 1, 1997. You could be barred from reentering the United States for up to ten years under these circumstances. (See the discussion of time bars in Chapter 2, Section A.)



**Indiana**  
State Flower: Peony



### Your Next Step If You Entered the U.S. Legally

If you decide to get married and apply for your green card in the United States:	See Chapter 11 covering spouses of U.S. citizens living in the U.S. Go to Section D, which covers the first application.
If you decide to leave the United States unmarried before overstaying by six months or more, and apply for a K-1 fiancé visa:	See Chapter 5, Section G, for fiancé visa application procedures.
If you decide to marry (abroad or in the U.S.), leave the United States, and apply for an immigrant visa or a K-3 “fiancé” visa:	See Chapter 7 for marriage-based visa application procedures.
If none of the above options work:	See an attorney; Chapter 17 contains tips on finding a good one.



### Your Next Step If You Entered the U.S. Illegally

If you decide to marry and can adjust status in the United States:	See Chapter 11 for spouses of U.S. citizens living in the United States. Go to Section D, which covers the first application.
If you have not stayed illegally for more than six months and decide to leave the United States and apply for a fiancé visa:	See Chapter 5, Section G, regarding fiancé visa application procedures.
If you have not stayed illegally for more than six months and decide to leave the United States and apply for a marriage-based immigrant visa or a K-3 “fiancé” visa:	See Chapter 7 regarding marriage visa application procedures for overseas spouses of U.S. citizens.
If none of the above options work:	See an attorney; Chapter 17 contains tips on finding a good one.



## Fiancés in the U.S. Engaged to Permanent Residents

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1. If Your Fiancé Becomes a U.S. Citizen .....	10/4
2. If You Marry Your Permanent Resident Fiancé .....	10/5

If you are in the United States—legally or illegally—and are engaged to marry a U.S. lawful permanent resident, you are not immediately eligible to obtain permanent residence (a green card) on this basis. Only foreign nationals married to *U.S. citizens* are immediately eligible for permanent residence.

No one will stop you from getting married in the United States—in fact, getting married will take you one step closer to a green card, by allowing you to get on the waiting list for one. But there are quotas for the number of spouses of permanent residents who are allowed green cards each year, which means there are long waiting lists. Many newlyweds will have to live outside the United States while their names sit on a waiting list for a marriage-based visa—a wait of three to five years.

The key to knowing how and where—in the U.S. or overseas—you'll get your green card is whether you entered the United States legally or illegally. For example, if you entered with permission, such as with a tourist visa, but stayed beyond the expiration date, you have entered the country legally and may be able to get your green card in the United States. On the other hand, if you entered illegally, for example by crossing secretly at an unguarded point, you lose certain important procedural rights—you may have to leave the United States right away if you want to get a green card later. Start by reading Section A to see whether your entry is considered legal or illegal, then move to the subsections that match your current situation.

## A. Did You Enter Legally or Illegally?

If you entered the United States with permission of the U.S. authorities, you entered legally. Whether you got that permission in advance or were simply allowed in when you arrived, the important thing is that you were personally met and allowed to enter by an officer of the U.S. border control. This could occur either at the border itself or at some other port of entry such as an airport, seaport, or bus station. The usual ways people enter legally are:

- with a visa (a tourist, student, or temporary worker visa, for example)

- with a border crossing card (a special pass allowing regular entries)
- under the Visa Waiver Program (where citizens of certain countries are allowed to enter the U.S. as tourists by showing their passport, without first obtaining an entry visa).

An illegal entry is, naturally, the opposite of a legal entry. People entering illegally have failed to obtain permission to enter. They may pay someone to sneak them across the U.S. border, wait until the dead of night and find an unguarded point on the U.S. border, or conceal themselves in the trunk of someone else's car. USCIS says that they entered “without inspection,” which means that they weren't personally met and approved for entry by a U.S. border control official. (USCIS refers to such people as “EWIs,” pronounced “ee-wee,” which stands for entry without inspection.) The immigration laws make getting a green card very difficult for people who entered the United States without inspection, or illegally.



If you entered the United States by crossing the border illegally, skip ahead to Section C.

## B. Fiancés Who Entered the U.S. Legally

This section explains the immigration options for foreign nationals who entered the United States legally, as defined in Section A above, and still live there. Even if you are living in the U.S. illegally now, this section is for you.

Before we discuss your actual visa options, let's sweep away one myth. A fiancé visa is not an option for you. Fiancé visas are not given to fiancés of permanent residents, and they're not given to people already inside the United States. They are only available to the fiancés of U.S. citizens living overseas.

This said, you do have two options. You can:

- wait until your fiancé becomes a U.S. citizen, then apply for a fiancé or a marriage-based visa, as explained below in Section 1, or



- marry your fiancé and request a green card as the spouse of a lawful permanent resident, covered in Section 2.



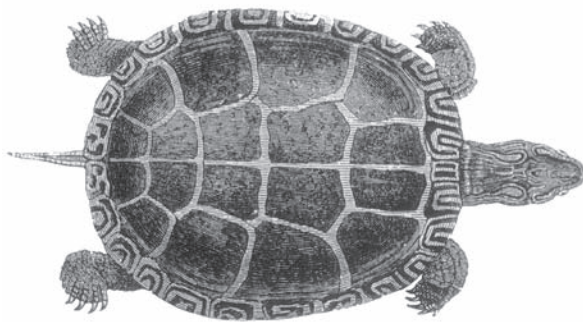
**Don't delay.** If you are close to the end of your legal stay in the United States you must act quickly. Despite your planned marriage, it may be necessary to leave the United States very soon in order to get a green card later. See Chapter 2, Section A, for more on the consequences of visa overstay.

## 1. If Your Fiancé Becomes a U.S. Citizen

In order to become a U.S. citizen, your fiancé must have been a U.S. permanent resident for five years (four years for refugees and political asylees), lived in the United States for at least half of those years, be of good moral character, and pass an exam covering the English language as well as U.S. history and government. To learn more about becoming a U.S. citizen see the USCIS website at [www.uscis.gov](http://www.uscis.gov) or *Becoming a United States Citizen: A Guide to the Law, Exam & Interview*, by Ilona Bray (Nolo).

To help speed your progress toward a green card, your fiancé should look into the requirements for U.S. citizenship, and apply as soon as he or she can. As soon as your fiancé obtains U.S. citizenship, you can:

- get married and immediately apply for your green card at a USCIS office (even if the expiration date of your visa has passed)



**Michigan**

State Reptile: Painted Turtle

- leave the United States before overstaying your visa by six months or more and apply at a U.S. consulate to return on a fiancé visa, or
- leave the United States before overstaying your visa by six months or more and, once you're married, apply at a U.S. consulate to return on an immigrant visa (green card) or a K-3 non-immigrant visa.

These options are discussed fully in Chapter 9, covering fiancés of U.S. citizens living in the United States.



**Be careful about leaving the United States if you have an expired visa or status.** If you have stayed six months or more past the expiration date of your visa, try to avoid the options that involve leaving the United States before obtaining your permanent resident status. You could be barred from returning to the country for three or ten years, depending how long you overstayed. See Chapter 2, Section A, for more on this issue.

## 2. If You Marry Your Permanent Resident Fiancé

If you marry your permanent resident fiancé while in the United States or abroad, you become what the immigration law calls a preference relative. This means that you become eligible for permanent residence in the United States—but not right away. There are annual quotas and long waiting lists for people in this category. You will not be able to legally live in the United States with your spouse during the waiting period unless you have another type of visa that allows you to stay the entire time. Your options boil down to the following:

- stay in the United States legally (if your non-immigrant visa lasts long enough to get you through the waiting period) and adjust your status to permanent resident in the United States
- stay in the United States illegally, hoping to adjust your status to green card holder in the United States
- leave the United States before you have overstayed your visa by six months or more, wait

overseas, then apply for a green card at a U.S. consulate

- leave the United States after you have overstayed your visa by more than six months but less than one year (thereby avoiding the more severe ten-year time bar), wait overseas, then apply for a green card at a U.S. consulate, or
- leave the United States after you have overstayed your visa by more than six months or a year, wait overseas, then apply for your green card and request a waiver (forgiveness) of your overstay at a U.S. consulate.

Learn more about each of the above options in Chapter 12 covering spouses of U.S. permanent residents.

## C. Fiancés Who Entered the U.S. Illegally

The advice in this section is for foreign fiancés living in the United States after crossing the border illegally. If you are close to having stayed illegally for six months in the United States, you must act quickly. When you ultimately go to a U.S. consulate to apply for your green card, you could face severe penalties if you've passed the six-month mark. You may not be able to return to the United States for up to ten years. See Chapter 2, Section A, for more on the consequences of visa overstay.



**If this is your second time (or more) in the United States and you spent a total of a year or more during your previous visits and/or were deported at the end of a visit, see an attorney before going any farther.** You may be permanently barred from immigrating to the United States. See Chapter 2, Section A, for further review of the permanent bar.

Before we discuss your actual visa options, let's sweep away one myth. A fiancé visa is not an option for you. Fiancé visas are not given to fiancés of permanent residents, and they're not given to people already inside the United States. They are available only to the fiancés of U.S. citizens living overseas.

This said, you do have a choice of methods for immigrating to the United States:

- wait until your fiancé becomes a U.S. citizen, then apply for a fiancé or a marriage-based visa (either of which will probably involve leaving the United States first), as explained in Section 1
- marry your fiancé and request a green card application as the spouse of a lawful permanent resident (which will probably involve leaving the United States first), as explained in Section 2.



**Be careful about leaving the United States if you have stayed illegally for six months or more.**

If you have, try to avoid the options that involve leaving before obtaining your permanent resident status. You could be barred from returning to the United States for three or ten years, depending how long you stayed illegally. See Chapter 2, Section A, for more on this issue.

## 1. If Your Fiancé Becomes a U.S. Citizen

In order to become a U.S. citizen, your fiancé must have been a U.S. permanent resident for five years (four years for refugees and political asylees), lived in the United States for at least half of those years, be of good moral character, and pass an exam covering the English language as well as U.S. history and government. To learn more about becoming a U.S. citizen see the USCIS website at [www.uscis.gov](http://www.uscis.gov) or *Becoming a United States Citizen: A Guide to the Law, Exam & Interview*, by Ilona Bray (Nolo).

To help speed your progress toward a green card, your fiancé should look into the requirements for U.S. citizenship and apply as soon as he or she can. As soon as your fiancé obtains U.S. citizenship, you can:

- marry, stay in the United States, and try to adjust your status to permanent resident in the United States. Unfortunately, because you entered the country illegally, you will probably not be allowed to stay in the United States while applying for your green card.

- marry and leave, then apply for an immigrant visa to return. If you stayed illegally in the United States for more than six months, accompany your application with a request for a waiver (forgiveness) of your illegal stay. Get a lawyer’s help with this—if the waiver is denied, you may be barred from returning for three or ten years.
- leave the United States before you have been here illegally for six months and apply at a U.S. consulate to return on a fiancé visa.

These options are discussed fully in Chapter 9, covering fiancés of U.S. citizens living in the United States.


2. If You Marry Your Permanent Resident Fiancé

If you marry your permanent resident fiancé while in the United States or abroad, you become a so-called preference relative. That means you will become eligible for permanent residence in the United States. But there are annual quotas and long waiting lists for people in this category. You also will not be able to legally live in the United States with your spouse during the waiting period (unless you were able to apply for another immigration program that allowed you to stay legally for a time, such as political asylum, but this is unlikely). Because of your illegal entry, you will probably not be allowed to apply for your green card inside the United States, even after your long wait. Your four options are to:

- stay in the United States illegally, hoping to adjust your status to permanent residence through USCIS
- leave the United States before you have stayed illegally for six months or more, wait out your waiting period, and apply for your green card through a U.S. consulate overseas

- leave the United States after you have stayed illegally for more than six months but less than a year, wait out your waiting period as well as your three-year inadmissibility period, and apply for your green card through a U.S. consulate overseas, or
- leave the United States after you have stayed illegally for more than a year, wait overseas, then apply for your green card along with a waiver of your illegal stay through a U.S. consulate overseas.

Learn more about these options in Chapter 12, covering spouses of U.S. permanent residents living in the United States.



**Your Next Step  
If You Entered the U.S. Legally**

Your fiancé will become a U.S. citizen:	See Chapter 9 covering fiancés of U.S. citizens living in the United States.
You will marry soon:	See Chapter 12 covering spouses of U.S. permanent residents living in the United States.



**Your Next Step  
If You Entered the U.S. Illegally**

Your fiancé will become a U.S. citizen:	See Chapter 9 covering fiancés of U.S. citizens living in the United States.
You will marry soon:	See Chapter 12 covering spouses of lawful permanent residents living in the United States.



## Spouses of U.S. Citizens, Living in the U.S.

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If you are married to a U.S. citizen, you are what is called an immediate relative in USCIS terminology. There are no limits on the number of immediate relatives allowed to apply for permanent residence each year. The only waiting period is the time it takes for your paperwork to be processed by the government. A green card will be available to you just as soon as you can get through the application procedures—but watch out, this is where things can get complicated.

Even though you are in the United States now, you may have to leave and apply for your green card overseas. The key to knowing how and where you'll get your green card is whether you entered the United States legally or illegally. Here's how it works: If you entered with permission, such as with a tourist visa, you have entered the country legally—even if you stayed beyond the visa expiration date. Your road to a green card should be fairly smooth—you should be able to stay in the United States for your entire application process, which will take about a year. On the other hand, if you entered illegally, for example by crossing secretly at an unguarded border point, you lose certain important procedural rights—you may have to leave the United States and apply for your green card at a U.S. consulate abroad—which could be difficult, depending on how long you have lived in the United States after that illegal entry. Start by reading Section A to see whether your entry is considered legal or illegal, then move to the subsections that match your current situation.



**Even if you are married to a U.S. citizen, there are reasons USCIS could reject your application and move to deport you.** See Chapter 2, Section A, for a discussion of the grounds of inadmissibility and review Chapter 2, Section B, to make sure you meet the basic eligibility criteria for a green card.

## A. Did You Enter Legally or Illegally?

If you entered the United States with permission of the U.S. authorities, you entered legally. Whether you got that permission in advance or were simply

allowed in when you arrived, the important thing is that you were personally met and allowed to enter by an officer of the U.S. border control. This could occur either at the border itself or at some other port of entry such as an airport, seaport, or bus station. The usual ways people enter legally are:

- with a visa (a tourist, student, or temporary worker visa, for example)
- with a border crossing card (a special pass allowing regular entries)
- under the Visa Waiver Program (where citizens of certain countries are allowed to enter the U.S. as tourists by showing their passport, without first obtaining an entry visa).

An illegal entry is, naturally, the opposite of a legal entry. People entering illegally have failed to obtain permission to enter. They may pay someone to sneak them across the U.S. border, wait until the dead of night and find an unguarded point on the U.S. border, or conceal themselves in the trunk of someone else's car. USCIS says that they entered “without inspection,” which means that they weren't personally met and approved for entry by a U.S. border control official. (USCIS refers to such people as “EWIs,” pronounced “ee-wee,” which stands for entry without inspection.) The immigration laws make getting a green card very difficult for people who entered the United States without inspection, or illegally.



If you entered the United States by crossing the border illegally, skip ahead to Section C.

## B. Spouses Who Entered the U.S. Legally

This section is for foreign nationals married to U.S. citizens and living in the United States after entering legally. There are two ways to apply for your green card. You can:

- stay in the United States and submit your application to adjust status to permanent residence at a local USCIS office, as explained in Section 1, below, or

- leave the United States before you have overstayed your visa by six months or more and apply for your immigrant visa/green card at an overseas U.S. consulate, as covered in Section 2.

## 1. Stay in the U.S. to Apply

The fact that you entered the United States legally and that your spouse is a U.S. citizen is a magic combination. It allows you to get your green card through a procedure called Adjustment of Status. Using this procedure, you can apply for permanent residence without leaving the United States, even if you have stayed past the date when you were originally supposed to leave (which is most likely the expiration date of your visa).

**EXAMPLE:** Marbelita came to the United States in May 2004, on a tourist visa. While enjoying the view from the Empire State Building, she struck up a conversation with Bill, a U.S. citizen. They fell in love and Marbelita couldn't bear to leave when her tourist visa expired in July. She and Bill married in August. Although she is now in the United States illegally, the combination of her legal entry and Bill's status as a U.S. citizen allows her to apply for her green card (Adjustment of Status) at a local USCIS office. As soon as Marbelita submits that application, her stay will become legal and she and Bill can live together in the United States while awaiting approval of her green card. Of course, there are other hurdles they must cross, including convincing USCIS that their marriage is real and not simply a way for Marbelita to stay in the United States.

There are many benefits to staying in the United States during the application process. You won't be separated from your spouse, and will receive a permit to work while you wait to attend the final green card interview at a local USCIS office. Although your spouse will be required to accompany you to that interview (which is not required for interviews

attended by immigrants coming from overseas), having your spouse present is an advantage, both for moral support and because a large part of the discussion will be your spouse's ability to support you financially. And, unlike an overseas interview, you can bring an attorney with you—which you might decide to do if your case has become complicated during the application process. You may want a lawyer, for example, if you realize that you might fall into a ground of inadmissibility (see Chapter 17 for more on how to find and use a lawyer).

### a. Entering on a Temporary Visa Might Pose a Problem

If you used a temporary visa—such as a tourist visa—to enter the United States, planning all along to get married, you might find yourself facing accusations of visa fraud if you apply to adjust status in the United States. Particularly if you knew your spouse before arriving in the United States and used a temporary visa to enter, USCIS is likely to be suspicious. At the interview where your green card would normally be approved, USCIS might question you about whether your real intention when you arrived was to apply for permanent residence after your marriage. Unless you entered on a fiancé visa, the discovery that this was your real intention will lead USCIS to demand that you file an additional application requesting a waiver or forgiveness of your visa fraud. (See Chapter 1, Section B2, if you think you might be in this category.)

Of course, if you met your spouse after you arrived in the United States, this won't be a problem. And even for other couples, uncertainties about their marriage plans as well as the length of time they waited to get married often satisfy USCIS that they didn't misuse an entry visa.

### b. Two-Year Testing Period for New Marriages

You must be married for two years to obtain a permanent green card. If you apply before your

marriage is two years old, you'll get a conditional card, good for only two years. Since most people will apply for their green card soon after marrying, they will get a conditional green card.

You won't be kicked out of the country after the two years—provided you don't forget to file the next application. This is an application for a permanent green card, which sometimes involves an interview to allow USCIS to take a second look at whether your marriage is real. (See Chapter 16, Section G, for more on this issue.)

### c. Your Children

Your unmarried children under age 21 may also be eligible to submit applications for green cards along with you (see Chapter 2, Section B, if you have children).

## 2. Leave and Apply at an Overseas Consulate

For most married applicants, Adjustment of Status is the preferred way to obtain permanent residence. However, a second option for people who haven't overstayed their visa by six months or more is to leave the United States and apply for a green card at a U.S. consulate overseas.

Applying at a consulate might be worthwhile if it will significantly speed up the green card approval process. Some immigrants have special reasons for needing their green card quickly, such as the need to bring an ailing relative to the United States, as the example below illustrates. The Adjustment of Status process in the United States usually takes at least a year, sometimes more. The application process through an overseas consulate also usually takes at least a year, but some consulates are much more efficient and can approve you for a green card in a matter of months.

Contact both your local USCIS office and the U.S. consulate in your home country to find out how long each of their application and approval processes take. Also, ask other immigrants about their experience with that consulate.

Even if your overseas U.S. consulate is very efficient and can issue a green card faster, it may not be worth the trip. No matter how efficient the U.S. consulate is, the law requires that you stay in your home country for a minimum of three months before your approval. That means a minimum three-months' separation from your spouse. And if your application gets delayed or the consulate asks you to supplement your application before they will approve it, your overseas stay could last even longer.

There are some immigrants who should not leave the U.S. to apply for their green card, no matter how efficient their consulate will be nor how compelling their reasons for needing to get the card quickly. These are the people who have stayed past the expiration date on their visa by six months or more. Such people could be found inadmissible and prevented from returning for three or ten years, as described in Chapter 2, Section A.

**EXAMPLE:** Asma is in the United States on a student visa, and recently married Fred, a U.S. citizen. Asma's elderly mother lives alone in Ethiopia, under very difficult circumstances. Asma is her mother's only hope to leave Ethiopia. Once Asma becomes a U.S. citizen, she can file an immediate relative petition for her mother to immigrate. But Asma can't apply for U.S. citizenship until she has been a U.S. resident for three years—so she needs that green card approval as soon as possible. In her case, it may be worthwhile to compare processing times between her local USCIS office and the U.S. consulate in Ethiopia. Asma understands that if she stays past the expiration of her student visa by six months or more, she should not even consider leaving the United States to apply for her green card, since she would face penalties of three or ten years, depending on how long she overstayed.



**Carry proof of when you depart the United States.** If you decide to apply for your green card at a U.S. consulate, your history of U.S. visits will trigger a request that you prove you left on time. Collect and keep all evidence, such as your plane tickets, store

receipts, medical records, credit card statements, and anything else relevant. (See Chapter 2, Section A, for the rules on and penalties for overstaying a U.S. visa by six months or more.)

#### **a. Two-Year Testing Period for New Marriages**

You must be married for two years to obtain a permanent green card. If you apply before your marriage is two years old, you'll get a conditional card, good for only two years. Since most people will apply for their green card soon after marrying, they will get a conditional green card.

You won't be kicked out of the country after the two years—provided you don't forget to file the next application. This is an application for a permanent green card, which sometimes involves an interview to allow USCIS to take a second look at whether your marriage is real. (See Chapter 16, Section G, for more on this issue.)

#### **b. Your Children**

Your unmarried children under age 21 may also be eligible to submit applications for immigrant visas along with you (see Chapter 2, Section A, if you have children).



**If you are certain that you wish to leave the United States and apply overseas, go straight to Section D below.** This section contains instructions on the first step, the visa petition to be filed by your spouse. This petition can be filed before or after you leave the United States.

this petition, you submit an application for permanent residence (a green card), showing that you are interested and are eligible to immigrate.

But for the spouse of a U.S. citizen who entered the country legally, the process usually gets condensed into one step. Most local USCIS offices allow both your spouse's petition and your green card application to be filed together. A few USCIS offices, however, still insist that your spouse submit the visa petition separately for approval before you file your green card application. Accordingly, we cover the visa petition and your green card application in separate sections: Section D, below, covers the I-130 visa petition, and Chapter 14 covers the remainder of your green card application. If you learn from your local USCIS office that you can submit them all in one step, you should have no trouble following the instructions in both sections and then combining the visa petition and green card application before submitting them.

The first step for your U.S. citizen spouse is to call or visit the USCIS District Office in your area and ask, "Do you require preapproval of an immediate relative spouse's I-130 before my spouse files an Adjustment of Status application?" The telephone number for local USCIS offices will be in your local phone book under the government (blue page) listings; but getting through may be difficult. If it's easier to visit the office personally, you'll find a listing of District Offices in Appendix D. If USCIS tells your spouse that preapproval is required, he or she will need to follow the instructions in Section D, below.



**If you're ready to get to work on the visa petition, jump to Section D below for complete instructions.**

### **3. Introduction to the Application Process in the U.S.**

Getting your marriage-based green card is normally a two-step process. First, your spouse submits a petition (Form I-130) telling USCIS that he or she wants to help you immigrate. After USCIS approves

### **C. Spouses Who Entered the U.S. Illegally**

This section is for foreign nationals living in the United States after entering illegally. Unfortunately, your path to a green card is a difficult one, involving

unattractive choices. Before explaining them in detail, we need to warn one group of readers to see an attorney if:

- you've entered the U.S. illegally two or more times and
- the total amount of illegal time in the U.S. totals one year or more; or
- you've been deported.

These would-be immigrants may be permanently barred from immigrating to the United States. See Chapter 2, Section A, for further information about the permanent bar.

Now, for those of you who have entered illegally only once, or whose previous illegal entries and stays total less than one year, here are your choices. As the spouse of a U.S. citizen, you are known as an immediate relative. A visa or green card is theoretically available as soon as you can get through the application procedures. Unfortunately, the procedures themselves make it difficult to get a green card. Unless you fall into a rare exception, you will not be allowed to apply for your green card at a USCIS office in the United States. But if you leave after living here illegally for more than six months, you risk having the consulate punish you by refusing to let you return to the United States for three or ten years. (Chapter 2 has a full discussion of these time bars.)



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To avoid being punished by the time bars, you need to act carefully and quickly. You have three options to consider:

- see if you fit into an exception and can apply to change your status to green card holder in the United States; this path is covered below in Section 1
- leave the United States before you have been here six months and apply to an overseas U.S. consulate to return immediately with an immigrant visa; this option is explained below in Section 2, or
- leave the United States after you have been here more than six months and apply to an overseas U.S. consulate for a waiver of your illegal stay along with an immigrant visa to return; this choice is explained in Section 3.

## 1. Can You Adjust Your Status in the U.S.?

Most married immigrants want to get their green card without leaving the United States. But in the late 1990s, the U.S. Congress made it more difficult for many immigrants to fulfill that hope. Only certain categories of immigrants are now allowed to apply for their green card in the United States using the Adjustment of Status procedure. People who entered the United States illegally are normally not among them.

However, a very few people will be lucky enough to fall into an exception to these laws if they started the application process before the laws changed. The key is whether a prospective employer or a close family member of yours, even if it wasn't your spouse, filed an immigrant visa petition (Form I-130 for family members) on your behalf either:

- before January 14, 1998, or
- between January 14, 1998 and April 30, 2001, if you can prove that you were physically present in the United States on December 21, 2000.

If the visa petition was approved (or denied only because of a mistake by USCIS), you may be allowed to adjust your status to permanent resident without leaving the United States. (See Chapter 2, Section A, for more details on who may take advantage of these time windows. Also don't forget to check the Legal



Updates section of Nolo's website at [www.nolo.com](http://www.nolo.com) for news on Congress extending the time frames of these windows.) In short, if your Form I-130 was on file as described above, you have a ticket to adjust your status in the United States, even though you entered the country illegally.

If you fall into this exception, by all means file to change (adjust) your status to green card holder in the United States. This is especially true if you have stayed in the United States illegally for more than six months. If you were to leave and try to apply for your green card at a U.S. consulate, the officials could punish you for your illegal stay by preventing your return for three or ten years.



If you are sure you will be able to adjust status in the United States, go to Section D, below for the first step.

If you don't fall into this exception but are determined not to leave the United States at all, your only option (which we don't recommend) is to stay illegally, hoping that the immigration laws will change in your favor. Many couples have chosen this route, but it is a huge gamble. Recent changes in the immigration laws have made them harsher, not gentler on immigrants, and there is little hope that this trend will change. If you chose this option, you must be aware that you will likely never obtain legal residence in the United States and will face the ever-present possibility of being caught, deported, and prevented from returning to the United States for at least ten years.

## 2. Leave the U.S. Before Six Months Have Passed

If you don't fit into an exception as described in Section 1, above, but you haven't yet stayed in the United States illegally for more than six months, your safest bet is to leave the United States before that date rolls around. Leaving now would protect you from having a three-year bar assessed against you when you later visit the U.S. consulate overseas to apply for your green card (and from a ten-year bar if you stayed illegally for more than a year).

After leaving, other visa options will open up to you: As the overseas spouse of a U.S. citizen, you can get a marriage-based immigrant visa based on your immediate relative status. This may mean many months of separation from your spouse while you wait overseas for your green card to be approved. A second, faster option is also available to you: to use a K-3 "fiancé visa" to enter the United States, after which you would complete the green card application process at a local USCIS office. But months of separation now might be better than three or ten years of separation later. See Chapter 7 for instructions on how to apply overseas for immigrant or K-3 visas as the spouse of a U.S. citizen.



### **Make sure you can prove you stayed illegally for fewer than six months.**

When the time comes to apply for your green card, the consulate will want to see proof of how long you stayed illegally in the United States. Collect and keep all evidence, such as your plane tickets, store receipts, medical records, credit card statements, and anything else relevant.



**If you are certain that you wish to leave the United States and apply overseas, go straight to Section D, below.** This section contains instructions on the first step, the visa petition to be filed by your spouse. This petition can be filed before or after you leave the United States.

## 3. Leave the U.S. After Six or More Months and Apply for a Waiver

If you are not eligible to adjust status in the United States, but your unlawful stay was long enough that you would face a three- or ten-year bar on returning if you left, see an attorney. (See Chapter 2 for more on the three- and ten-year bars, and Chapter 17 for tips on finding a good attorney.) The attorney can help you decide whether you should risk leaving the United States and applying for a marriage-based visa along with a waiver of the time bars (in other words, forgiveness of your unlawful stay). With a waiver, you could return to the United States as soon as you got through the immigrant visa/green card application process, which usually takes about one year.

It's not easy to get a waiver. You'll have to convince the consulate that if your visa were denied, it would cause extreme hardship to your U.S. spouse or children—and when the law says extreme, it means much more than the sadness your spouse and children will feel at your being thousands of miles away. The classic case of extreme hardship is someone whose U.S. citizen spouse has severe medical problems that require the other spouse's constant attention.



**Time bar waivers are new.** Look for an attorney who has had experience preparing and arguing for them. Even some experienced immigration attorneys have never requested one of these waivers.

## D. The First Application: I-130 Visa Petition

Your U.S. citizen spouse initiates the green card application process by preparing a visa petition—Form I-130, Petition for Alien Relative, and attached documents. Your spouse can start and submit this any time, before or after you have left the United States.

With the visa petition, you're asking USCIS to acknowledge that you're married and to let you go forward with green card processing. Approval of the visa petition does not guarantee approval of your green card. This is only the first step in the process. Your portion of the application is still to come, and you will have to pass all the tests USCIS gives before allowing someone to live in the United States permanently.

We'll go through how to prepare and assemble the various forms and documents, one by one. To keep track of them all, refer to the checklist in Section 5, below. You'll find a few items on this checklist that are self-explanatory, so they aren't discussed in the following text.

Before proceeding, take a look at the general instructions for printing and filling out USCIS forms in Chapter 4. Also, as you read these instructions, you should have a copy of the appropriate form in hand.

### 1. Form I-130

Form I-130 is one of the most important ones in your immigration process. It will be your spouse's first opportunity to explain who each of you are, where you live, and why you qualify for a visa.

Form I-130 is normally printed out two-sided, head to foot, on pastel yellow paper. Remember, although recent USCIS policy states that you don't have to worry about the color or print-direction of two-sided forms, local offices have not all caught up with this policy—the safest route is to print the forms in their traditional fashion.

The first thing to notice about Form I-130 is that it runs in two columns (except for the tiny Part A near the top). The left column, or Part B, asks for information about the petitioner—that's your U.S. citizen spouse. Don't be thrown off by the fact that the form addresses your spouse as "you"—after all, it's your spouse who fills out this form. The right column asks for information about you, referred to as the relative.



Form I-130 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of this form.

#### Part A

**Question 1:** Check the first box, Husband/Wife.

**Question 2:** This question, about whether you're related by adoption, is meant for people who use this form to apply for an adopted child. We're assuming you can answer this question "No."

**Question 3:** If your petitioning spouse gained U.S. permanent residence through adoption before becoming a citizen, check **Yes**. But no matter which box you check, it won't affect the application, since this question is mainly directed at people immigrating through parent/child relationships—something not covered in this book.

#### Part B

**Question 1:** The petitioning spouse must enter his/her last name (surname) in capital letters, but the first and middle name in small letters. For example, Samuel Lawrence Cole would write COLE, Samuel

Lawrence. Use his/her current married name if it was changed at the time of your marriage. (See “What’s Your Name?” in Chapter 4, Section B.)

**Questions 2-5:** Self-explanatory.

**Question 6:** This question refers only to the petitioning spouse’s most recent marital status. He or she should check only “married,” even if there was a previous divorce.

**Question 7:** See “What’s Your Name?” in Chapter 4, Section B.

**Question 8:** Your marriage date is self-explanatory.

**Question 9:** Your spouse’s Social Security number is self-explanatory.

**Question 10:** A U.S. citizen can put N/A here, even if your spouse was once a lawful permanent resident and had an Alien Registration Number (known as an A-Number).

**Question 11:** Self-explanatory.

**Question 12:** This question of when your spouse’s prior marriage ended is intended to make sure your current marriage is valid. If your petitioning spouse’s prior marriage(s) ended after your present marriage began, yours is not a lawful marriage. If your petitioning spouse has just discovered that the divorce wasn’t final when your marriage took place, it may not be necessary to run to a lawyer. Assuming that the divorce has since become final, you can simply correct the problem by remarrying. (If there was fraud involved in your hasty marriage, consult a lawyer before proceeding.)

**Question 13:** If your petitioning spouse is a naturalized U.S. citizen (meaning he or she wasn’t born a citizen, but had to apply and take a citizenship exam), his or her number is on the top right-hand side of the naturalization certificate. The date and place issued are also shown on the certificate.

**Question 14a:** U.S. citizens can write N/A here.

**Question 14b:** If your petitioning spouse checks “yes” here, indicating that he or she received U.S. permanent residence through marriage, find out how long it has been since your spouse’s approval for permanent residence. A petitioning spouse who him or herself immigrated through marriage cannot petition for a new spouse for five years after approval, unless the first spouse died or your spouse can prove by “clear and convincing evidence” that the previous marriage was bona fide

(real). USCIS is concerned that the first marriage was just a sham, with the long-term goal of getting both of you into the United States by piggybacking on a sham marriage.

To prove that the first marriage was bona fide, your spouse should enclose documentary evidence, such as shared rent receipts, club memberships, children’s birth certificates, utility bills, and insurance agreements showing that he and his former spouse shared a life together. As for what makes for “clear and convincing evidence,” this is one of those legal standards that is easy to state but hard to pin down. The bottom line is, your spouse has a lot of proving to do to persuade a suspicious government official that his or her previous marriage was bona fide.

### **Part C: (Now referring to you, the immigrant beneficiary)**

**Question 1:** Your current name, with your last name (surname) in capital letters, like this: SMITH. (If you have any doubts about what name to use, see “What’s Your Name?” in Chapter 4, Section B.)

**Questions 2-5:** Self-explanatory.

**Question 6:** Your current marital status only.

**Question 7:** See “What’s Your Name?” in Chapter 4 Section B.

**Question 8:** Your marriage date: self-explanatory.

**Question 9:** You shouldn’t have a Social Security number until you have had a work permit, a visa allowing you to work, or U.S. residence. If you don’t have a valid Social Security number, write N/A.

**Question 10:** The Alien Registration Number is an eight-digit number following a letter A that USCIS or the former INS will have assigned to you. You won’t have one yet unless you’ve previously applied for permanent or, in some cases, temporary residence, or been in deportation/removal proceedings. (If your previous application was denied because you were inadmissible, or you lied on that application, you should call a lawyer before going any farther.)

**Question 11:** Self-explanatory.

**Question 12:** See advice to Question 12 on Part B, above.

**Question 13:** Put an X in the “Yes” box. Since you have chosen to read this chapter, you have

apparently been (and may still be) in the United States.

**Question 14:** Enter information about your most recent entry to the United States, even if this was only after a brief trip and you moved to the United States long ago.



**If you know that you must leave the United States to get your green card, be careful here.**

This question gives the government information on when you were living in the United States—perhaps unlawfully. It could lead to your being punished for your illegal stay with a three- or ten-year bar on reentry (see Chapter 2, which explains the time bars in detail). Ideally, if you will have already left the United States when your spouse sends this in, he or she won't have to answer the question at all.

**If you entered legally.** State the type of visa you used to enter the United States, such as F-1 student or Visa Waiver (if you came from a country from which you didn't have to get a formal U.S. visa). Your I-94 is the little white or green card that the consulate or the border official gave you when you arrived; the number is on the card. The date your stay expires or expired should be on the I-94 card (or in rare cases, in your passport). Note that this date is different than the expiration date on your original visa.

**If you entered illegally.** Write “without inspection.”

**Question 15:** State your employer's name and address.

USCIS appears not to use this information to go after employers who hired people illegally. However, if you not only worked illegally but used false documents to do it (such as a fake green card), consult with an attorney. (See Chapter 17 for information on finding a good lawyer.)

**Question 16:** If you've been placed in Immigration Court proceedings, see a lawyer, particularly if you lost.

**Question 17:** This is the continuation of Part C, so all questions still refer to you, the immigrant beneficiary. Since your spouse is already covered in this application, just list your children, if any. This means all your children, including any by previous relationships.

**Question 18:** Self-explanatory.

**Question 19:** Self-explanatory.

**Question 20:** If your native language uses a non-Roman script (for example, Russian, Chinese, or Arabic), you'll need to write your name and address in that script.

**Question 21:** Self-explanatory. But if you're going to be leaving the United States after living here unlawfully, this is another time to be careful—the information about how long you and your spouse lived at the same address could be used against you.

**Question 22:**

**If you entered legally.** If you plan to take advantage of the option to stay in the United States to adjust your status, enter the closest city and state with a U. S. immigration office. (If more than one office is in your area, call to see which one will actually accept your case.) Add the name of the consulate from your last country of residence, as a backup—though if you've followed our instructions, you won't need to go there.

If you are choosing to return to your home country and apply through a U.S. consulate, you need not fill out this box.

**If you entered illegally.** Unless you fall into an exception and are therefore allowed to stay in the United States to apply for your green card, you'll have to complete your application at a U.S. consulate, and need not fill out this box.

**Part D: Other Information.**

Now we're back to questions to be answered by the U.S. petitioning spouse.

**Question 1:** If your spouse is also submitting petitions for your children, this is where he should enter their names and relationship to him or her (such as child or stepchild). This will result in USCIS processing all of your petitions together.

**Question 2:** As you can probably imagine, if your petitioning spouse has a history of short marriages to people whom he/she then helped get green cards, USCIS will conduct a major marriage fraud investigation. See a lawyer (Chapter 17 has more on how to find and use a lawyer).

**Signature Line:** The petitioning spouse signs here.



## Petition for Alien Relative

Additional pages not shown.

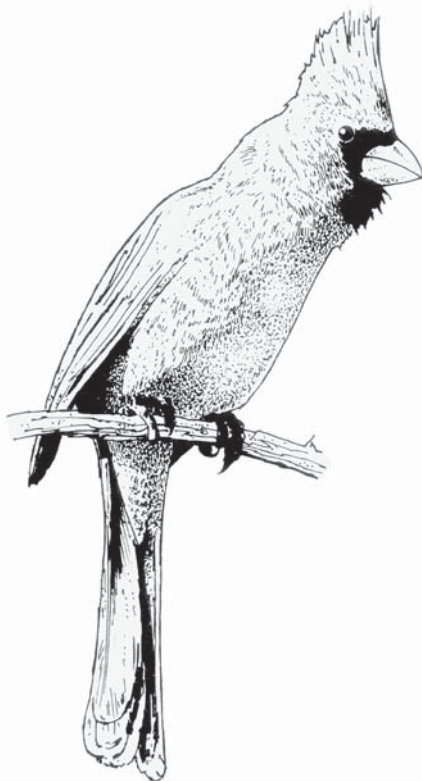


**Signature of Person Preparing Form If Other Than**

**Above.** If you or your spouse are filling out your own application, write N/A here. A little typing assistance or advice from a friend doesn't count—the only people who need to complete this line are lawyers or agencies who fill out these forms on others' behalf.

**2. Form G-325A**

The data collected on this form will give the U.S. government information with which to check your background. Most of the form is self-explanatory. If you really can't remember or are unable to find out an exact date, enter whatever you can remember, such as the year. Alternately, you can simply say "unknown"; but don't overuse the "unknowns," or USCIS may return your entire application for another try. Since the questions aren't numbered, we refer to them by the approximate line.



Illinois, Indiana, Kentucky, North Carolina,  
Ohio, Virginia, West Virginia  
State Bird: Cardinal

This form is single-sided. Remember, you and your spouse each fill one out. The one that you, the immigrant, fill out is meant to be submitted as four exact copies, in colors white, green, pink, and blue. Your spouse, however, needs to complete only one copy, on white paper.



Form G-325A is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of this form.

**Line 1 (Family Name, etc.):** Self-explanatory.

**Line 2 (Father/Mother):** Self-explanatory.

**Line 3 (Husband or Wife):** Self-explanatory.

**Line 4 (Former Husbands or Wives):** Self-explanatory.

**Line 6 (Applicant's Residence Last Five Years):** Be careful here; these addresses need to be in reverse chronological order, starting with your most recent address and working your way down the last five years. For example, if you now live in Detroit but lived in Ann Arbor before, your Detroit address would go on the top line. Practice making this list on another sheet of paper before you enter the information here.

**Line 7 (Applicant's Last Address Outside the United States of More Than One Year):** This may overlap with one of the addresses in Line 6—that's okay.

**Line 8 (Applicant's Employment Last Five Years):** Again, be careful to put this in reverse chronological order. If you've been unemployed, self-employed, or were a housewife or house-husband, say so here—in other words, try not to leave anything blank.

**Line 9 (Show below last occupation abroad if not listed above):** This line asks you to list your last overseas employment—if you didn't already list it under Line 8. People tend to overlook this line, because it's so small—make sure you don't accidentally skip over it.

**Line 10 (This Form Is Submitted in Connection With Application For):** Your U.S. citizen spouse should check "other," and write "in support of spouse's I-130." You should check "status as permanent resident."

**Line 11 (If your native alphabet uses non-Roman letters):** Self-explanatory.

**Line 12 (The large box):** Self-explanatory.

## Form G-325A, Biographic Information

U.S. Department of Justice  
Immigration and Naturalization ServiceOMB No. 1115-0066  
**BIOGRAPHIC INFORMATION**

(Family name)	(First name)	(Middle name)	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	BIRTHDATE (Mo.-Day-Yr.)	NATIONALITY	FILE NUMBER A-
ALL OTHER NAMES USED (Including names by previous marriages)			CITY AND COUNTRY OF BIRTH		SOCIAL SECURITY NO. (If any)	
FATHER MOTHER (Maiden name)						
HUSBAND (if none, so state) OR WIFE		FAMILY NAME (if wife, give maiden name)	FIRST NAME	BIRTHDATE	CITY & COUNTRY OF BIRTH	DATE OF MARRIAGE PLACE OF MARRIAGE
FORMER HUSBANDS OR WIVES (if none, so state)						
FAMILY NAME (For wife, give maiden name)		FIRST NAME	BIRTHDATE	DATE & PLACE OF MARRIAGE	DATE AND PLACE OF TERMINATION OF MARRIAGE	
APPLICANT'S RESIDENCE LAST FIVE YEARS. LIST PRESENT ADDRESS FIRST						
STREET AND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	FROM MONTH	TO YEAR
						PRESENT TIME
APPLICANT'S LAST ADDRESS OUTSIDE THE UNITED STATES OF MORE THAN ONE YEAR						
STREET AND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	FROM MONTH	TO YEAR
APPLICANT'S EMPLOYMENT LAST FIVE YEARS. (IF NONE, SO STATE) LIST PRESENT EMPLOYMENT FIRST						
FULL NAME AND ADDRESS OF EMPLOYER				OCCUPATION (SPECIFY)	FROM MONTH	TO YEAR
						PRESENT TIME
Show below last occupation abroad if not shown above. (Include all information requested above.)						
THIS FORM IS SUBMITTED IN CONNECTION WITH APPLICATION FOR:				SIGNATURE OF APPLICANT		
<input type="checkbox"/> NATURALIZATION <input type="checkbox"/> STATUS AS PERMANENT RESIDENT				DATE		
<input type="checkbox"/> OTHER (SPECIFY):						
Submit all four pages of this form.				If your native alphabet is other than roman letters, write your name in your native alphabet here:		

PENALTIES: SEVERE PENALTIES ARE PROVIDED BY LAW FOR KNOWINGLY AND WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT.

**APPLICANT: BE SURE TO PUT YOUR NAME AND ALIEN REGISTRATION NUMBER IN THE BOX OUTLINED BY HEAVY BORDER BELOW.**

COMPLET THIS BOX (Family name) (Given name) (Middle name) (Alien registration number)

### 3. Where to Send Form I-130 Visa Petition

Where you'll send your Form I-130 visa petition will depend on whether you'll be allowed to complete your green card (Adjustment of Status) application in the United States or will be leaving to apply through an overseas U.S. consulate.

#### a. If You Will Be Adjusting Your Status in the U.S.

If you will be adjusting your status in the United States (either because you entered legally or because you can use an earlier-filed visa petition as your entry ticket to adjusting status), talk to your local USCIS office. If the local office allows you file the Form I-130 at the same time you file your adjustment of status forms, don't send it anywhere! Simply keep the completed visa petition until you have completed your green card application.



Applicants who will be adjusting status in the United States can now skip to Section C.

However, your local USCIS office may have told you that their procedures require you to obtain pre-approval of your Form I-130 before applying for your green card. If so, then your spouse must send the Form I-130 and all its attachments to the USCIS Service Center for the region where he or she lives.

Your spouse should first make a copy of everything being sent (including the checks and photographs). Certified mail with a return receipt is the safest way to send anything to USCIS. The Service Center's address is in Appendix C, or double check this information on the USCIS website at [www.uscis.gov/graphics/fieldoffices/statemap.htm](http://www.uscis.gov/graphics/fieldoffices/statemap.htm) or by calling 800-375-5283. Once USCIS has approved your I-130, you can proceed with your Adjustment of Status (green card) application.

#### b. If You Will Be Completing the Process Overseas

If you will ultimately be leaving the United States to apply for your green card through a U.S. consulate, your spouse must send the Form I-130 and all its attachments to the USCIS Service Center for the region where he or she lives. The form can be sent in any time, before or after you leave the United States.

Your spouse should make a copy of everything being sent (including the checks and photographs). Certified mail with a return receipt is the safest way to send anything to USCIS. The Service Center's address is in Appendix C, or double check this information on the USCIS website at [www.uscis.gov/graphics/fieldoffices/statemap.htm](http://www.uscis.gov/graphics/fieldoffices/statemap.htm). Once USCIS has approved the I-130, it will transfer your file to the National Visa Center (NVC), which will link you up with an overseas U.S. consulate.

### 4. What Happens After You Mail in Form I-130 Visa Petition

Your spouse will get a receipt notice from the USCIS Service Center a few weeks after the visa petition is mailed. The notice will say how long the application is likely to remain in processing, which is usually at least 90 days and may be a year or more. It will look something like the sample below.

Until the number of processing days predicted by the receipt notice have passed, USCIS will ignore any letters from you or your spouse asking what is going on. These Service Centers seem like walled fortresses—you can't visit them, and it's almost impossible to talk to a live person there. If USCIS needs additional documentation to complete your application, they will send your spouse a letter asking for it. (See Chapter 15 for what to do if you don't get a timely answer from the USCIS Service Center.)

Eventually your spouse will receive a denial or an approval of the visa petition.



## Sample Receipt of Application Notice

U.S. Department of Justice  
Immigration and Naturalization Service

## Notice of Action



RECEIPT NUMBER WAC-95-132-55555		CASE TYPE I130 IMMIGRANT PETITION FOR RELATIVE, FIANCE (E), OR ORPHAN
RECEIPT DATE April 13, 1995	PRIORITY DATE	PETITIONER A99 999 999 AGUILAR, JOSE
NOTICE DATE April 13, 1995	PAGE 1 of 1	BENEFICIARY AGUILAR, CLARITA
AMY F. LEE, ATTORNEY 555 PARKER ST. BERKELEY CA 94710		Notice Type: Receipt Notice  Amount received: \$ 80.00  Section: Husband or wife of permanent resident, 203(a)(2)(A) INA

The above application or petition has been received. It usually takes 89 to 90 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect. Our customer service phone number is listed below:

We will send you a written notice as soon as we make a decision on this case. You can also use the phone number below to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).

Please see the additional information on the back. You will be notified separately about any other cases you filed.  
IMMIGRATION & NATURALIZATION SERVICE  
WESTERN SERVICE CENTER  
P. O. BOX 30111  
LAGUNA NIGUEL CA 92607-0111  
Customer Service Telephone: (714) 643-4880



RECEIVED APR 17 1995

### a. If the Visa Petition Is Denied

If the visa petition is denied, USCIS will give a reason for the denial. The fastest thing to do is to fix the problem and try again. For example, if the denial is because your petitioning spouse did not appear to be actually divorced from his or her previous spouse, your spouse will need to see a lawyer and obtain new and better documentation showing that there was a final divorce. Then your spouse can file a new visa petition.

### b. If the Visa Petition Is Approved

Assuming your case is approved, your spouse will receive a notice from the USCIS Service Center. An example of a visa petition approval notice is shown below. As you can see, it's nothing fancy. But it is

an important document. Make a few photocopies of it and store these and the original in safe places. As you'll see when you get to the next step, you'll use a copy of the approval notice as part of your green card application.

## 5. Using the Checklist for Step One, Visa Petition

This checklist shows every form, document, and other item needed for the initial visa petition that your spouse, with your help, will assemble and submit to USCIS.



A copy of this checklist is available on the CD-ROM at the back of this book and as a tear-out in Appendix H.

### Checklist for Visa Petition

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Form I-130 (see line-by-line instructions in Section 1, above)</li> <li><input type="checkbox"/> Documents to accompany Form I-130 (photocopies only):             <ul style="list-style-type: none"> <li><input type="checkbox"/> Your marriage certificate (see Chapter 4, Section C, on obtaining vital documents)</li> <li><input type="checkbox"/> Proof of the U.S. citizenship status of your petitioning spouse, such as a birth certificate, passport, certificate of naturalization, or Form FS-20 (Report of Birth Abroad of a United States Citizen)</li> <li><input type="checkbox"/> Proof of termination of all previous marriages, such as certificates of death, divorce, or annulment; (see Chapter 4, Section C, regarding how to obtain vital documents)</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> One color photo of you; see photo instructions in Appendix E</li> <li><input type="checkbox"/> One color photo of your spouse (same style as your photo), and</li> <li><input type="checkbox"/> Fees: Currently \$185 for an I-130, but double-check this at <a href="http://www.uscis.gov">www.uscis.gov</a> or call 800-375-5283</li> <li><input type="checkbox"/> Form G-325A, Biographic Information, filled out by you (see Section 2, above, for line-by-line instructions)</li> <li><input type="checkbox"/> Form G-325A, Biographic Information, filled out by your spouse (see Section 2, above, for line-by-line instructions).</li> </ul> |
|---|--|



## Sample Visa Petition Approval Notice

U.S. Department of Justice  
Immigration and Naturalization Service

## Notice of Action

THE UNITED STATES OF AMERICA		
RECEIPT NUMBER WAC-95-132-55555		CASE TYPE I130 / IMMIGRANT PETITION FOR RELATIVE, FIANCE(E), OR ORPHAN
RECEIPT DATE April 13, 1995	PRIORITY DATE April 11, 1995	PETITIONER A99 999 999 AGUILAR, JOSE
NOTICE DATE June 26, 1995	PAGE 1 of 1	BENEFICIARY AGUILAR, CLARITA
AMY F. LEE, ATTORNEY 555 PARKER ST. BERKELEY CA 94710		Notice Type: Approval Notice Section: Husband or wife of permanent resident, 203(a)(2)(A) INA
<p>The above petition has been approved. We have sent the original visa petition to the <b>Department of State National Visa Center (NVC), 32 Rochester Avenue, Portsmouth, NH 03801-2909</b>. NVC processes all approved immigrant visa petitions that need consular action. It also determines which consular post is the appropriate consulate to complete visa processing. NVC will then forward the approved petition to that consulate.</p> <p>This completes all INS action on this petition. If you have any questions about visa issuance, please contact the NVC directly. The telephone number to NVC is (603) 334-0700.</p> <p>The NVC will contact the person for whom you are petitioning concerning further immigrant visa processing steps.</p> <p>THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.</p>		
<p>Please see the additional information on the back. You will be notified separately about any other cases you filed.</p> <p>IMMIGRATION &amp; NATURALIZATION SERVICE WESTERN SERVICE CENTER P. O. BOX 30111 LAGUNA NIGUEL CA 92607-0111 Customer Service Telephone: (714) 643-4880</p>		



RECEIVED JUL 06 1995



### Your Next Step If You Entered the U.S. Legally

You will be applying for your green card in the United States:	See Chapter 14 on applying to adjust your status to permanent resident.
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You will be applying for your green card overseas:	See Chapter 7, starting at Section B4, on consular processing procedures.
--	---



### Your Next Step If You Entered the U.S. Illegally

If you are grandfathered into being allowed to adjust status in the United States:	See Chapter 14 regarding Adjustment of Status application procedures.
--	---

If you leave the United States before six months are up:	See Chapter 7, starting at Section B4, on consular processing procedures.
--	---

If you plan to leave the United States after six months have passed and apply for a waiver:	See an attorney; Chapter 17 contains tips on finding a good one.
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## Spouses of Permanent Residents, In the U.S.

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If you are in the United States—legally or illegally—and you are married to a U.S. lawful permanent resident, you are not immediately eligible to obtain permanent residence. Only foreign nationals married to U.S. citizens are immediately eligible for permanent residence.

As the spouse of a permanent resident, you are known as a preference relative. There are quotas on the number of preference relatives who are allowed green cards each year, which means there are long waiting lists. Your spouse can, and should, put you on the waiting list for a green card right away. But you'll probably be on the waiting list for three to five years. And no matter what your circumstances, it probably won't be legal for you to live in the United States while you wait (unless you happen to have a nonimmigrant visa that will last for all those years).

The key to how and where you'll get your green card is whether you entered the United States legally or illegally. If you entered illegally, you lose certain important rights. Start by reading Section A to see whether your entry is considered legal or illegal, then move on to the subsections that match your current situation.

## A. Did You Enter Legally or Illegally?

If you entered the United States with permission of the U.S. authorities, you entered legally. Whether you got that permission in advance or were simply allowed in when you arrived, the important thing is that you were personally met and allowed to enter by an officer of the U.S. border control. This might have occurred at the border itself or some other port of entry, such as an airport, seaport, or bus station. The usual ways people enter legally are:

- with a visa (a tourist, student, or temporary worker visa, for example)
- with a border crossing card (a special pass allowing regular entries)
- under the Visa Waiver Program (whereby citizens of certain countries are allowed to enter the U.S. as tourists by showing only their passport, without first obtaining an entry visa).

An illegal entry is, naturally, the opposite of a legal entry. People entering illegally have failed to obtain permission to enter. They may pay someone to sneak them across the U.S. border, wait until the dead of night and find an unguarded point on the U.S. border, or conceal themselves in the trunk of a car. USCIS says that they entered “without inspection,” which means that they weren't personally met and approved for entry by a U.S. border control official. (USCIS refers to such people as “EWIs,” pronounced “ee-wee,” which stands for entry without inspection.) The immigration laws make getting a green card very difficult for people who entered the United States without inspection, or illegally.



If you entered the United States by crossing the border illegally, skip ahead to Section C.

## B. Spouses Who Entered Legally

This section explains the immigration choices for foreign nationals who entered the United States legally and still live here. It applies to those of you who have overstayed your visa as well as those who are still within the visa's time limit.

### 1. Options and Strategies

USCIS expects the application process for every spouse of a permanent resident—even those who happen to be in the United States already—to follow this sequence:

1. Your permanent resident spouse puts you on the waiting list for a green card by filing a visa petition on Form I-130.
2. You wait overseas for an average of three to five years until you reach the top of the waiting list.
3. You apply for an immigrant visa at a U.S. consulate in your home country.
4. Only when you have your immigrant visa do you come to the United States to claim your green card.



Unfortunately, what USCIS expects and what immigrant applicants want are often two different things. We're guessing that since you are already in the United States, you would like to stay here with your spouse while you apply for your green card. Many couples have stayed illegally in the past, and for brief periods Congress allowed them to apply for their green cards here—but these laws are gone (although a few people can still take advantage of them; see Section 3, below). It will be difficult or impossible for the spouses of permanent residents living in the United States to remain in the United States while they apply for a green card. Nevertheless, the options outlined below will cover every possible way to get your green card in the United States and will tell you how and where to apply if you can't.



**The six-month problem.** If you've already stayed in the United States for six or more months beyond the expiration of your permitted stay, you have a very good reason to look for a way to get your green card without leaving the United States. If you leave the country and apply for permission to come back as a permanent resident, you can be prevented from entering the United States for three or ten years even if you are otherwise entitled to a green card through marriage (see Chapter 2, Section A, to review the time bar penalties for illegal stays).

The spouse of a U.S. lawful permanent resident has five options (though we don't recommend all of them, as you'll see in the subsequent discussion):

- stay in the United States legally (if your non-immigrant visa lasts long enough to get you through the waiting period) and adjust your status to permanent resident in the United States; this option is covered in Section 2, below
- stay in the United States illegally, hoping to adjust your status to green card holder in the United States; this path is explained in Section 3.
- leave the United States before you have overstayed your visa by six months or more, wait overseas, then apply for a green card at a U.S.

consulate; this possibility is explained in Section 4

- leave the United States after you have overstayed your visa by more than six months but less than one year, wait out your waiting period at the same time that you serve your three-year penalty for overstaying, then apply for a green card at a U.S. consulate; this possibility is explained in Section 5, or
- leave the United States after you have overstayed your visa by more than six months or a year, wait overseas, then apply for your green card at a U.S. consulate, together with a request for a waiver (forgiveness) of your overstay; this option is described in Section 6.

## 2. Stay in the U.S. Legally

If you can make your current visa (the one you used to enter the United States) last for the full three to five years that you are likely to spend on the waiting list for a green card, you may be able to apply for your green card without leaving the United States. However, all of the following will need to be true when your waiting period is over and it's time for you to apply for your green card:

- you entered the United States legally
- you have never been out of lawful U.S. immigration status
- you have never worked illegally in the United States, and
- your visa waiting period is over and you are immediately eligible to apply for your green card.



**If you are already out of lawful immigration status or have worked illegally, skip to Section 3, below.** If you're uncertain, consult an attorney; see Chapter 17 for tips on finding a good lawyer.

If your current visa has not expired and you haven't worked illegally, your spouse should file an initial visa petition for you as soon as possible. This is the application that will put you on the waiting

list for a green card. (See Section D below for how to prepare and submit this petition.) You should have no problem getting USCIS approval to put you on the waiting list. Then the important question is: Will your current visa status (student, temporary worker, or some other) really last long enough to get you through the waiting period?

If you are on a tourist visa, the answer is probably no. Your waiting period is likely to last three to five years or more—but your tourist visa is probably good for no more than six months, with the possibility of one six-month extension. If you are on some other visa, such as a student or temporary worker visa, you may have a chance. In fact, academic student visas can be extended by moving on to a more advanced program; and some temporary worker visas can be renewed. Just be sure not to work illegally, which would destroy your eligibility to adjust status.



**A full discussion of which visas are renewable and how long you can make them last is outside the scope of this book.** You may wish to consult with an attorney.

If your visa runs out and you are still on the waiting list, what should you do? You will need to make an educated guess at how much longer you will be on the waiting list (see Section E below to figure out your waiting period). If your wait is probably going to be another six months or more from the date your visa expires, you would be best advised to leave the United States within those six months to avoid facing a three- or ten-year bar on reentering (be sure to save proof of your departure date, such as a plane ticket). You could try returning to the United States with another temporary visa, but the U.S. consulate is unlikely to grant one, knowing that your true intention is to stay in the United States permanently (which the consulate would see as a misuse of the temporary visa).

Another option is to consider when your spouse will become a U.S. citizen. Once he or she becomes a citizen, you move off the waiting list and can apply for a green card right away, no matter how long you overstayed your visa. But you will be

living in the United States illegally between the time your visa runs out and when you turn in your green card application. USCIS or DHS is unlikely to look for you, but if it happens to catch you, it will probably deport you. (See Section 3 below for a discussion of living in the United States illegally and for more on the benefits of your spouse becoming a citizen.)

If you do need to finish your wait in your home country, you will ultimately apply for your green card through a U.S. consulate. So long as you didn't stay unlawfully in the United States for more than six continuous months, this is not a risky procedure. Hopefully, you won't have to wait overseas for long.



If an option described in this section definitely fits your situation, you can go to Section D below for the next step.

### 3. Stay in the U.S. Illegally

It is illegal to stay in the United States past the expiration of any temporary visa while you are on the waiting list for a green card. However, a number of people take this risk. The people most likely to do so are those who know or believe that an exception to the law allows them access to a local USCIS office to apply for their green card (Adjustment of Status) at the end of their wait. For these few people, taking the risk of waiting illegally may have a big payoff at the end, because there will be no penalty for their illegal stay when they apply to adjust status. By contrast, any applicant abroad who goes to a U.S. consulate to apply for a green card is exposed to penalties for their illegal stay—a three- or ten-year bar on returning to the United States, depending on the length of their stay. Still, staying in the United States illegally is a gamble that we only describe, not recommend.



**People who attempt to stay in the United States illegally can be picked up and placed in removal proceedings at any time.** Your marriage to a permanent resident will not be enough by itself to protect you from deportation. For more on the risks, see Subsection c, below.

Some people choose to wait illegally in the United States knowing that they won't be permitted to adjust their status at the end of the waiting period. Their only hope is that the immigration laws will change in their favor. This is a huge gamble—recent changes in the immigration laws have made them harsher, not gentler on immigrants. But none of us has a crystal ball, and some immigrant families find it unthinkable to separate now, come what may later.

There are two categories of people who might be allowed to adjust their status to permanent resident at a USCIS office, even after their visa has run out and they have stayed illegally. These are people whose spouses become U.S. citizens during the waiting period, and people who fall into narrow exceptions within the immigration laws.

#### a. If Your Spouse Becomes a U.S. Citizen

If your permanent resident spouse becomes a U.S. citizen, your situation will dramatically improve. For this reason, your spouse should be planning now for U.S. citizenship.

#### i. Move Off the Waiting List and Adjust Status

When your spouse becomes a U.S. citizen, you become eligible to adjust your status to permanent resident in the United States right away. This is true even if your spouse becomes a citizen after your visa runs out and you've stayed in the United States illegally, no matter how long your illegal stay. Regardless of your status, you would move off the green card waiting list and become what is known as an immediate relative.

You'll become eligible for a green card just as soon as you can get through the rest of the application procedures. And you won't have to leave the United States to apply for that green card. Because you *entered* the United States legally *and* your spouse is a U.S. citizen, you are eligible to file your green card application in the United States, using the Adjustment of Status procedure.



**Don't leave the United States until your green card is approved.** Having your spouse become a U.S. citizen doesn't solve everything. If you stayed illegally for more than six months in the United States after the expiration of your visa and before turning in your green card application, watch out. Leaving the United States before your green card is approved will subject you to bars on reentry of three or ten years.

#### ii. When Your Spouse Can Apply for Citizenship

A permanent resident can apply for U.S. citizenship five years after his approval for residence (unless he gained permanent residence through political asylum or as a refugee, in which case the time period drops to four years).

Unless your spouse faces some serious impediment to citizenship—such as not knowing English or having a criminal record—he or she should apply for citizenship as soon as possible. USCIS permits people to submit the application three months before the end of their waiting period—but no more than three months, or USCIS will reject the application.



**Wyoming**

State Insignia: Bucking Horse



For more on the process and requirements of applying for U.S. citizenship, see the USCIS website at [www.uscis.gov](http://www.uscis.gov), or *Becoming a United States Citizen: A Guide to the Law, Exam & Interview*, by Ilona Bray (Nolo).

## b. A Few People Can Adjust Their Status in the U.S.

A very few people living illegally in the United States might be lucky enough to fall into an exception to the recent harsh immigration laws and be allowed to change their status to permanent resident at a local USCIS office. The key is whether an employer or a family member of yours, even if it wasn't your spouse, filed an immigrant visa petition (Form I-130 for family members) on your behalf either:

- before January 14, 1998, or
- between January 14, 1998 and April 30, 2001, if you can also prove that you were physically present in the United States on December 21, 2000.

If that visa petition was approved, or if it was denied only because of a mistake by the INS (as USCIS was then called), then you will be “grandfathered in” under the old laws and allowed to change your status to permanent resident at a USCIS office. Immigrants who can take advantage of the time windows mentioned above are among the lucky few who won't have to travel to a U.S. consulate to apply for their green card. (For more details on the grandfathering clauses, see Chapter 2, Section A.)

This grandfathering exception only lets you submit and receive a decision on your green card application by a USCIS office as opposed to an overseas consulate. It doesn't mean that you can stay in the United States illegally while on the waiting list (for permission to submit the green card application). But many people take the risk of staying, in order to be with their spouse during the application process. (USCIS doesn't normally search these people out, but will deport them if it happens to find them.) If you get to the end of the waiting period without any contact with USCIS, you'll be allowed to walk right into a USCIS office and apply for your green card.

The opportunity to adjust status in the United States is especially valuable to people who have already stayed for more than six months past the expiration date of their visa. If they leave the United States, they can be kept out for three or ten years. (See Chapter 2, Section A.)

## c. The Risks of Staying Illegally

If you decide to stay in the United States illegally, you will be taking some chances. USCIS so far has not made efforts to catch waiting spouses of permanent residents—they have other things on top of their enforcement priority list, such as going after criminal or terrorist aliens or people with no family members here. But this policy could change. In addition, you could be picked up in a raid, or after someone with a grudge has tipped off USCIS or DHS to your whereabouts.

If you are picked up, you will probably be deported—and hit with a ten-year bar on returning to the United States. Your marriage to a U.S. permanent resident won't help you if you are still on the waiting list for a visa. It could only help you if you were immediately eligible to apply for your green card, either because your waiting period was over or your spouse had become a U.S. citizen.



**If you are discovered by USCIS or DHS, get a lawyer right away.** The lawyer can fully evaluate your case and possibly defend you against deportation. Whatever you do, don't ignore the summons to go to court—that could destroy your chances of getting a green card later.

## 4. Leave Before You Have Overstayed by Six Months or Less

If you haven't stayed more than six months past the expiration date of your visa or other right to be here (such as having entered under the Visa Waiver Program), your safest bet is to leave the United States before that date rolls around. It is particularly important to think about when you are going to leave if you won't be allowed to submit your green

card application to a USCIS office (because your situation does not fit into Subsection 3a or 3b, above). If you must leave, it's better to leave sooner rather than later. Remember, if you leave before you have overstayed your visa for six months, there are no penalties. But if you've overstayed a visa (or status) by 180 to 365 continuous days, you can be barred from returning to the United States for three years. If you overstay for more than a year, you can be barred for ten years.



**Make sure you can prove you overstayed by less than six months.**

When the time comes to apply for your green card, the consulate will want proof of how long you stayed illegally in the United States. Collect and keep all evidence, such as your plane tickets, store receipts, medical records, credit card statements, and anything else relevant to show that you left the United States before six months was up.

After you are overseas and your waiting period is over or your spouse becomes a U.S. citizen, you can receive a green card through normal procedures at an overseas consulate. Obviously, this may also mean many years of separation from your spouse while you wait overseas to rise to the top of the waiting list. But five years of separation now might be better than ten years of separation (because of a time bar penalty) later.

## 5. Leave After You Have Overstayed by More Than Six Months but Less Than One Year

If you have stayed past the expiration date of your visa by more than six months but less than year, the law would only bar you from returning to the United States for a three-year period. If you left the United States now, your three-year penalty would likely be over by the time you reach the top of the waiting list and you are allowed to apply for your immigrant visa and green card.

Leaving the United States before you overstay your visa by a year or more might be safer than staying around for the whole green card waiting period and risking being caught by the immigration

authorities. You could be deported and prevented from reentering the United States for ten years.



**Make sure you can prove you overstayed by less than one year.**

When the time comes to apply for your green card, the consulate will want to see proof of how long you stayed illegally in the United States. Collect and keep all evidence, such as your plane tickets, store receipts, medical records, credit card statements, and anything else relevant to show that you left before a year was up.

## 6. Leave After You Have Overstayed a Year or More and Apply for a Waiver

If you have stayed in the United States more than a year after your visa expired and cannot apply for a green card there, you face a long wait overseas. Overstaying by more than a year means you will be prevented from returning to the United States for ten years. (See Chapter 2, Section A.)

If you are outside the United States after an illegal stay of a year or more and your visa waiting period ends, you will have to finish out your ten-year penalty before applying for a green card to return. You will, however, keep your place on the waiting list. The only way to avoid the ten-year bar is to ask USCIS to forgive your illegal time in the United States. This is called asking for a waiver (which you do at the time you submit the final portions of your green card application). This procedure is best handled by an experienced immigration attorney.

The attorney can give you a sense of how likely it is that your waiver will be approved. There are certainly no guarantees. To get a waiver request approved, you will have to show that your not receiving a visa will cause extreme hardship to your spouse and children in the United States—and when the law says extreme, it means much more than the sadness they will feel at your being thousands of miles away. The classic case of extreme hardship is someone whose U.S. spouse or child has severe medical problems that require the immigrating spouse's constant attention.



With a waiver, you can return to the United States as soon as your waiting period is over and you get through the immigrant visa/green card application process, which usually takes about one year.



**These waivers are new.** Look for an attorney who has experience preparing and presenting them. Even some experienced immigration attorneys may have never requested one of these waivers. See Chapter 17 for tips on finding a good attorney.

## C. Spouses Who Entered Illegally

This section is for foreign nationals living in the United States after entering illegally. Unfortunately, your path to a green card is a difficult one, involving unattractive choices. Before explaining them in detail, we need to warn one group of readers to see an attorney if:

- you've entered the U.S. illegally two or more times and
- the total amount of illegal time in the U.S. is one year or more; or
- you've been deported.

These would-be immigrants may be permanently barred from immigrating to the United States. See Chapter 2, Section A, for further information about the permanent bar.

### 1. Options and Strategies

USCIS expects the application process for every spouse of a permanent resident—even those already living in the United States—to follow this sequence:

1. Your permanent resident spouse puts you on the waiting list for a green card by filing a visa petition on Form I-130.
2. You wait overseas for an average of three to five years until you reach the top of the waiting list.
3. You apply for an immigrant visa at a U.S. consulate in your home country.
4. Only when you have your immigrant visa do you come to the United States to claim your green card.

But what USCIS expects and what immigrant applicants want are often two different things. We're guessing that since you are already in the United States, you would like to stay here with your spouse while you apply for your green card. Many couples have stayed illegally in the past, and for brief periods of time Congress allowed them to apply for their green cards here—but these laws are gone (although a few people can still take advantage of them. See Section 2, below). It will be difficult or impossible for the spouses of permanent residents now living in the United States to remain in the United States while they apply for a green card. It is particularly difficult for people who entered illegally, because unlike people who entered with a visa, you will not be allowed to submit your green card application in the United States even if your spouse becomes a U.S. citizen. Nevertheless, the options outlined below will consider every possible way to get your green card in the United States and will tell you how and where to apply if you can't.



**The six-month problem.** If you've already stayed illegally in the United States for six months or more, you have a very good reason to look for a way to get your green card without leaving the United States. If you leave the country and apply for permission to come back as a legal permanent resident, you can be prevented from entering the United States for three or ten years even if you are otherwise entitled to a green card through marriage. (See Chapter 2, Section A, to review the time bar penalties for illegal stays.)

You have four options (though we don't recommend all of them, as you'll see in the subsequent discussion):

- stay in the United States illegally, hoping to adjust your status to permanent residence through a local USCIS office; this option is covered in Section 2, below
- leave the United States before you have stayed illegally for six months or more, wait out your waiting period, and apply for your green card through a U.S. consulate overseas; this path is explained in Section 3

- leave the United States after you have stayed illegally for more than six months but less than a year, wait out your waiting period at the same time that you serve your three-year penalty for staying illegally, and apply for your green card through a U.S. consulate overseas; this possibility is explained in Section 4
- leave the United States after you have stayed illegally for more than a year, wait overseas, then apply for your green card along with a waiver of your illegal stay through a U.S. consulate overseas; this option is described in Section 5.

## 2. Stay in the U.S. Illegally

If you've entered the U.S. illegally, it's against the law to stay in the United States while you are on the waiting list for a green card. However, a number of people take this risk.

The people most likely to risk living in the United States illegally are those who know or believe that an exception to the law allows them access to a local USCIS office to apply for their green card (Adjustment of Status) at the end of their wait. For these few people, taking the risk of waiting illegally may have a big payoff at the end, because there will be no penalty for their illegal stay when they apply to adjust status. By contrast, any applicant who goes to a U.S. consulate to apply for a green card is exposed to penalties for their illegal stay—a three- or ten-year bar on returning to the United States, depending on the length of their stay. Staying in the United States illegally is a gamble that we only describe, not recommend.



**People who attempt stay in the United States illegally can be picked up and placed in removal proceedings at any time.** Your marriage to a permanent resident is not enough by itself to protect you from deportation. For more on the risks, see Subsection b, below.

There is another option, which we also don't recommend. You could wait in the United States illegally, hoping that the immigration laws will

change in your favor and make you eligible to apply for a green card at a USCIS office. This is a huge gamble—recent changes in the immigration laws have made them harsher, not gentler on immigrants. But none of us has a crystal ball, and some immigrant families find it unthinkable to separate now, come what may later.



**Some immigrants may become legal some other way.** It is possible, although rare, for someone to enter the United States illegally and later acquire the right to be there, temporarily or permanently. For example, someone might enter illegally but apply for political asylum and be given the right to live in the U.S. while the claim is being decided. These situations are outside the scope of this book. If you are proceeding on more than one immigration application at once, you should see an attorney for help. See Chapter 17 for tips on finding a good lawyer.

### a. A Few Who Entered Illegally Can Adjust Their Status in the U.S.

Only certain categories of immigrants are now allowed to apply for their green card in the United States using the Adjustment of Status procedure. People who entered the United States illegally are normally not among them. However, a very few people might be lucky enough to fall into an exception to these laws, based on having started the application process before the laws changed. The key is whether a prospective employer or a close family member of yours, even if it wasn't your spouse, filed an immigrant visa petition (Form I-130 for family members) on your behalf either:

- before January 14, 1998, or
- between January 14, 1998 and April 30, 2001, if you can also prove that you were physically present in the United States on December 21, 2000.

If that visa petition was approved, or if it was denied only because of a mistake by the INS (as USCIS was then called), you may be allowed to adjust your status to permanent resident at a USCIS office. People who may take advantage of one of

these time windows are said to be “grandfathered in” under the old laws. (For more details on who is grandfathered in, see Chapter 2, Section A. Also check whether Congress has extended the deadlines for taking advantage of these grandfathering provisions; see the Legal Updates section of Nolo’s website at [www.nolo.com](http://www.nolo.com).) In short, if your Form I-130 was on file as described above, you have a ticket to adjust your status in the United States, even though you entered the country illegally.

This exception only lets you use a USCIS office instead of an overseas consulate to submit and receive a decision on your green card application. It doesn’t mean that you can stay in the United States while on the waiting list (before submitting the green card portion of your application). But many people take the risk of staying, in order to be with their spouse during the application process. (USCIS doesn’t normally search these people out, but will deport them if it happens to find them.) If you get to the end of the waiting period without any contact with USCIS, you’ll be allowed to walk right into a USCIS office and apply for your green card.

The opportunity to change status in the United States is especially valuable to people who have already stayed illegally for more than six months. If they leave the United States, they can be kept out for three or ten years. (See Chapter 2, Section A.)

## b. The Risks If You Stay Illegally

If you decide to stay in the United States illegally, you will be taking some chances. USCIS has not made efforts to catch waiting spouses of permanent residents—they have other things on top of their enforcement priority list, such as going after criminal aliens or people with no family members here. But this policy could change. In addition, you could be picked up in a USCIS raid, or after someone with a grudge tips off USCIS to your whereabouts.

If you are picked up, you will probably be deported—and hit with a ten-year bar on returning to the United States. Your marriage to a U.S. permanent resident won’t help you if you are still on the waiting list for a visa. It could only help you if you were

immediately eligible to apply for your green card because your waiting period was over.



**If you are discovered by USCIS, get a lawyer right away.** The lawyer can fully evaluate your case and possibly defend you against deportation. Whatever you do, don’t ignore the summons to go to court—that could destroy your chances of getting a green card later.

## 3. Leave Before You Have Stayed Illegally for Six Months

If you haven’t stayed illegally in the United States for more than six months, your safest bet is to leave before that date rolls around. It is particularly important to think about when you are going to leave if you won’t be allowed to submit your green card application to a USCIS office (because your situation does not fit into Subsection 2a, above). If you must leave, it’s better to leave sooner rather than later. Remember, if you leave before you have stayed illegally for six months, there are no penalties. But if you’ve stayed illegally for 180 to 365 continuous days, you can be barred from returning to the United States for three years. If you stay illegally for more than a year, you can be barred for ten years.



**Make sure you can prove you stayed for fewer than six months.** When the time comes to apply for your green card, the consulate will want to see proof of how long you stayed illegally in the United States. Collect and keep all evidence, such as your plane tickets, store receipts, medical records, credit card statements, and anything else that shows where you were and when.

After you are overseas and your waiting period is over, you can receive a green card through normal procedures at an overseas consulate. Obviously, this may also mean many years of separation from your spouse while you wait overseas to rise to the top of the waiting list. But five years of separation now might be better than ten years of separation (because of a time bar penalty) later.

#### 4. Leave After You Have Stayed Illegally for More Than Six Months but Less Than One Year

If you have stayed in the United States illegally for more than six months but less than one year, the law will bar you from returning to the United States for only a three-year period. If you leave the United States now, your three-year penalty will likely be over by the time you reach the top of the waiting list and are allowed to apply for your immigrant visa and green card.

Leaving the United States before you have stayed illegally for a year or more might be safer than staying around for the whole green card waiting period and risking being caught by the immigration authorities. You could be deported and prevented from reentering the United States for ten years.



**Make sure you can prove you stayed illegally by less than one year.**

When the time comes to apply for your green card, the consulate will want to see proof of how long you stayed illegally in the United States. Collect and keep all evidence, such as your plane tickets, store receipts, medical records, credit card statements, and anything else relevant to show where you were and when.

#### 5. Leave After You Have Stayed Over One Year Illegally and Apply for a Waiver

If you have stayed illegally in the United States for more than a year and cannot apply for a green card there, you face a long wait overseas. Staying more than a year gets you a ten-year bar on returning to the United States. (See Chapter 2, Section A.)

If you are outside the United States after an illegal stay of a year or more and your visa waiting period ends, you will have to finish out your ten-year penalty before applying for a green card to return. You will, however, keep your place on the waiting list. The only way to avoid the ten-year bar is to ask USCIS to forgive your illegal time in the United States. This is called asking for a waiver (which you would do at the same time as you submitted the final portions of

your green card application). This procedure is best handled by an experienced immigration attorney.

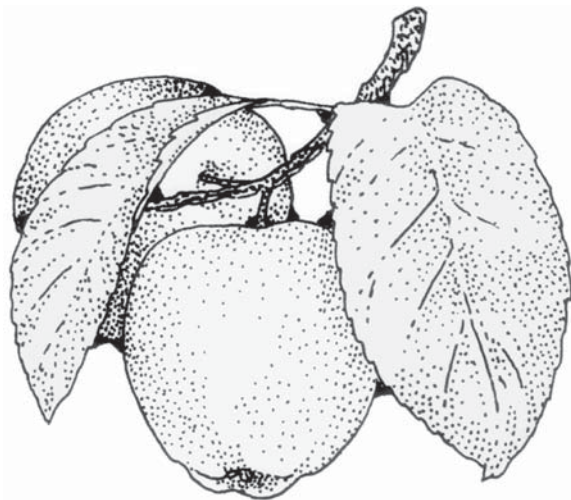
The attorney can give you a sense of how likely it is that your waiver will be approved. There are certainly no guarantees. To get a waiver request approved, you will have to show that your not receiving a visa will cause extreme hardship to your spouse and children in the United States—and when the law says extreme, it means much more than the sadness they will feel at your being thousands of miles away. The classic case of extreme hardship is someone whose U.S. spouse or child has severe medical problems that require the immigrating spouse's constant attention.

With a waiver, you can return to the United States as soon as your waiting period is over and you get through the immigrant visa/green card application process, which usually takes about one year.



**These waivers are new.**

Look for an attorney who has actual experience with them. Even some experienced immigration attorneys may have never requested one of these waivers. See Chapter 17 for tips on finding a good attorney.



**Washington**

State Fruit: Apple

The apple is also the official fruit of New York and West Virginia

## D. Step One: I-130 Visa Petition

Regardless of whether you apply for and receive your green card overseas or in the United States, there is one thing that you should do right away. Have your spouse file a visa petition to get you onto the waiting list. Don't worry that this petition will alert USCIS or DHS that you are in the United States illegally (if you are)—the immigration authorities don't usually use this information to track people down to deport them. The sooner your spouse files the visa petition, the sooner your wait to receive your green card will be over.

The visa petition asks USCIS to acknowledge that you're married and let you go forward with green card processing. Approval of the visa petition does not mean you're guaranteed approval of your green card, however. This is only the first step in the process. Like every immigrant, you will eventually have to file your own, extensive portion of the green card application. At that time, the U.S. government will take a hard look at your financial situation and other factors that might make you inadmissible.

### 1. Line-by-Line Instructions for Visa Petition Forms

This section will give you precise instructions for filling out the forms that are listed on the visa petition checklist below. Before proceeding, see Chapter 4 for general instructions on printing and filling out USCIS forms. Also, as you read these instructions, you should have a copy of the appropriate form in hand.

#### a. Form I-130

The Form I-130 is traditionally printed out two-sided, head to foot, on pastel yellow paper. The first thing to notice about Form I-130 is that it runs in two columns (except for the tiny Part A near the top). The left column, or Part B, asks for information about the petitioner—that's your U.S. permanent resident spouse. Don't be thrown off by the fact that

the form addresses your spouse as "you"—after all, it's your spouse who fills out this form. The right column asks for information about you, referred to as the relative. Now for the questions.



Form I-130 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

#### Part A

**Question 1:** Check the first box, Husband/Wife.

**Question 2:** This question, about whether you're related by adoption, is meant for people who use this form to apply for an adopted child. We're assuming you can answer this question "No."

**Question 3:** If the petitioning spouse gained permanent residence through adoption, check **Yes**. But no matter which box you check, it won't affect the application, since this question is mainly directed at people immigrating through parent/child relationships—something not covered in this book.

#### Part B

**Question 1:** The petitioning spouse must enter his/her last name (surname) in capital letters, but the first and middle name in small letters. For example, Samuel Lawrence Cole would write COLE, Samuel Lawrence. Use your spouse's current married name if it was changed at the time of your marriage. See "What's Your Name?" in Chapter 4, Section B.

**Questions 2-5:** Self-explanatory.

**Question 6:** This refers only to the petitioning spouse's most recent marital status, so he or she should only check "Married," even if there was a previous divorce.

**Question 7:** See "What's Your Name?" in Chapter 4, Section B.

**Question 8:** Self-explanatory.

**Question 9:** Self-explanatory.

**Question 10:** Enter the eight-digit A-number on the U.S. permanent resident's green card.

**Question 11:** Self-explanatory.

**Question 12:** USCIS wants to know when your spouse's prior marriage ended so that it can determine whether your current marriage is valid. If your petitioning spouse's prior marriage(s) ended



after your present marriage began, yours is not a lawful marriage. If your petitioning spouse has just discovered that the divorce wasn't final when your marriage took place, it may not be necessary to run to a lawyer. Assuming that the divorce has since become final, you can simply correct the problem by remarrying. (If there was fraud involved in your hasty marriage, consult a lawyer before proceeding.)

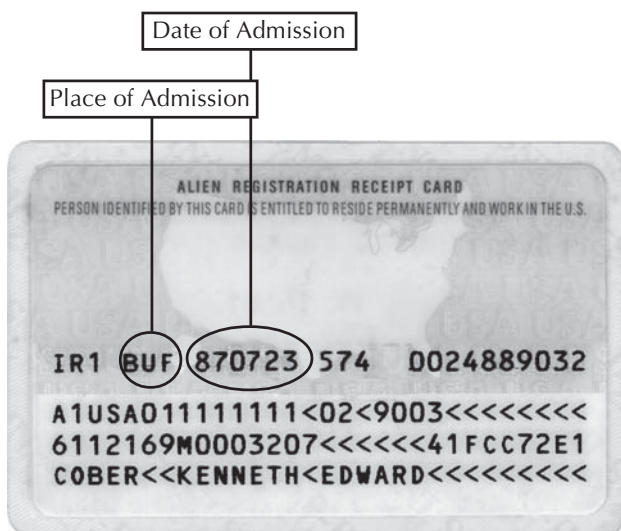
**Question 13:** Enter N/A, since your spouse is not yet a citizen.

**Question 14a:** The information requested here is usually on back of the older-style green cards and on the front of the newer ones. (See the illustration below.) The date on the older cards usually starts with the year, so that Dec. 3, 1998 would be 981203. The city is in code on both types of cards: for example, SFR is San Francisco, BUF is Buffalo, and LIN is the Service Center in Lincoln, Nebraska. (On the sample cards below "BUF" appears on the older card and "LIN" on the newer one. This is because the applicant became a conditional resident first, in Buffalo; then two years later received permanent residence from the Lincoln, Nebraska, Service Center.) Class of Admission asks for the type of visa or remedy through which the person

got permanent residence, such as a Fourth Preference visa or political asylum.

**Question 14b:** If your petitioning spouse checks "yes" here, indicating that he or she received U.S. permanent residence through marriage, find out how long it has been since your spouse's approval for permanent residence. A petitioning spouse who immigrated through marriage cannot petition for a new spouse for five years, unless the first spouse died or your spouse can prove by "clear and convincing evidence" that the previous marriage was bona fide (real). USCIS is concerned that the first marriage was just a sham, with the long-term goal of getting both of you into the United States by piggybacking on a sham marriage.

To prove that the first marriage was bona fide, your spouse should enclose documentary evidence showing that he and his former spouse shared a life, such as shared rent receipts, club memberships, children's birth certificates, utility bills, and insurance agreements. As for what makes for "clear and convincing," this is one of those legal standards that is easy to state but hard to pin down. The bottom line is, your spouse has a lot of proving to do to persuade a suspicious government official that his or her previous marriage was bona fide.



**Old-Style Green Card  
(Back side)**



**New-Style Green Card  
(Front side)**

## Petition for Alien Relative

Additional pages not shown.

**Part C: (This section asks for information about you, the immigrant beneficiary)**

**Question 1:** Your current name, with your last name (surname) in capital letters. If you have any doubt about what name to use, see “What’s Your Name?” in Chapter 4, Section B.

**Question 2:** Self-explanatory.

**Questions 3-5:** Self-explanatory.

**Question 6:** Enter your current marital status only.

**Question 7:** See “What’s Your Name?” in Chapter 4, Section B.

**Question 8:** Self-explanatory.

**Question 9:** If you don’t have a Social Security number, just write N/A. You probably won’t have a Social Security number unless you have had a work permit, a visa allowing you to work, or U.S. residence. If you have used a made-up or borrowed number in order to work while you were here illegally, consult an attorney.

**Question 10:** The Alien Registration Number is an eight-digit number following a letter A, which the former INS or USCIS will have assigned to you. You won’t have one yet unless you’ve previously applied for permanent or, in some cases, temporary residence, or been in deportation/removal proceedings. (Of course, if your previous application was denied because you were inadmissible or you lied on that application, you should call a lawyer before going any farther.)

**Questions 11 and 12:** See advice to Questions 11 and 12 in Part B, above.

**Question 13:** Put an X in the “Yes” box. Since you have chosen to read this chapter, you have apparently been (and may still be) in the United States.

**Question 14:** Enter information about your most recent entry to the United States, even if this was only after a brief trip and you moved to the United States long ago.



**If you know that you must leave the United States to get your green card, be careful here.**

This question gives the government information on when you were living in the United States—perhaps unlawfully. It could lead to your being punished for your illegal stay with a three- or ten-year bar on reentry (see Chapter 2 for further discussion). It would be best

to have already left the United States when your spouse sends this in, in which case he or she won’t have to answer the question at all.

If you entered legally, state the type of visa you used to enter the United States, such as an F-1 student or Visa Waiver (if you came from a country from which you didn’t have to get a formal U.S. visa). Your I-94 is the little white or green card that the border official gave you when you arrived; the number is on the card. The date your stay expires or expired should be on the I-94 card (or in your passport). Note that this date is different than the expiration date on your original visa.

If you entered illegally, write “without inspection.”

**Question 15:** State your employer’s name and address. To date, there are no reports of the government using this information to go after employers who hired people illegally. However, if you not only worked illegally but used false documents (such as a fake green card) to do it, you should consult with an attorney. (See Chapter 17 for information on finding a good lawyer.)

**Question 16:** If you’ve previously been placed in Immigration Court proceedings, see a lawyer, whether you won or lost, but particularly if you lost.

**Question 17:** This is the continuation of Part C, so all questions still refer to you, the immigrant beneficiary. Since your spouse is already covered in this application, just list your children, if any. This means all your children, including by previous relationships.

**Question 18:** Self-explanatory.

**Question 19:** Enter N/A if you’re living in the United States. However, if you’re here only temporarily and will be returning home to finish the green card application process, enter your overseas address.

**Question 20:** If your native language uses a non-Roman script (for example, Russian, Chinese, or Arabic), you’ll need to write your name and address in that script.

**Question 21:** Self-explanatory. But if you’re going to be leaving the United States after living here unlawfully, this is another time to be careful—the

information about how long you and your spouse lived at the same address could be used against you.

**Question 22:**

**If you entered legally:** If you are going to take advantage of the option to stay in the United States to adjust your status, enter the closest city and state with a USCIS Office. (If more than one office is in your area, you should call to see which one will actually accept your case.) Add the name of the consulate from your last country of residence, as a backup—though you won't necessarily need to go there.

If you are choosing to return to your home country and apply through a U.S. consulate, you do not need to answer this question.

**If you entered illegally:** Unless you are grandfathered in to being allowed to stay in the United States to apply for your green card, you'll have to apply at a U.S. consulate closest to where you live in your home country and need not fill out this box.

**Part D: Other Information.**

Now we're back to questions to be answered by the petitioning spouse.

**Question 1:** This refers to other petitions being submitted simultaneously, (for example, for your children from this or other marriages), so that USCIS can process the petitions together. Enter the children's names here.

**Question 2:** As you can probably imagine, if your petitioning spouse has a history of short marriages to people whom he/she then helped get green cards, USCIS may initiate a marriage fraud investigation. You should see a lawyer (Chapter 17 has tips on finding a good one).

**Signature Line:** The petitioning spouse signs here.

**Signature of Person Preparing Form If Other Than**

**Above.** If you are preparing your own application, write N/A here. A little typing assistance or advice from a friend doesn't matter—the only people who need to complete this line are lawyers or agencies who fill out these forms on others' behalf.

**b. Form G-325A**

The information you and your spouse supply on this form will allow the U.S. government to check your background. Most of the form is self-explanatory. If you really can't remember or are unable to find out an exact date, enter whatever you can remember, such as the year. Alternately, you can simply say "unknown," but if you overuse the "unknowns" USCIS may return your entire application for another try. Since the questions aren't numbered, we refer to them by the approximate line.



Form G-325A is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of this form.

**Line 1 (Family Name, etc.):** Self-explanatory.

**Line 2 (Father/Mother):** Self-explanatory.

**Line 3 (Husband or Wife):** Self-explanatory.

**Line 4 (Former Husbands or Wives):** Self-explanatory.

**Line 6 (Applicant's Residence Last Five Years):** Be careful here. These need to be in reverse chronological order, starting with your most recent address and working your way down the last five years. For instance, if you now live in Detroit but lived in Ann Arbor before, your Detroit address goes on the top line. Practice making this list on another sheet of paper before you enter the information here.

**Line 7 (Applicant's Last Address Outside the United States of More Than One Year):** This may overlap with one of the addresses in Line 6—that's okay.

**Line 8 (Applicant's Employment Last Five Years):** Again, be careful to put this in reverse chronological order. If you've been unemployed, self-employed, or were a housewife or house-husband, say so here—in other words, try not to leave anything blank.

**Line 9 (Show below last occupation abroad if not listed above):** This line asks you to list your last overseas employment if you didn't already mention it under Line 8. People tend to overlook this line, because it's so small—make sure you don't accidentally jump over it.

**Line 10 (This Form Is Submitted in Connection With Application For):** On your spouse's form, he or she



## Form G325-A, Biographic Information—Page 1

U.S. Department of Justice  
Immigration and Naturalization ServiceOMB No. 1115-0066  
**BIOGRAPHIC INFORMATION**

(Family name)	(First name)	(Middle name)	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	BIRTHDATE (Mo.-Day-Yr.)	NATIONALITY	FILE NUMBER A-
ALL OTHER NAMES USED (Including names by previous marriages)			CITY AND COUNTRY OF BIRTH		SOCIAL SECURITY NO. (If any)	
FATHER MOTHER (Maiden name)						
HUSBAND (If none, so state) OR WIFE						
FAMILY NAME		FIRST NAME	BIRTHDATE		CITY & COUNTRY OF BIRTH	DATE OF MARRIAGE
FAMILY NAME (For wife, give maiden name)		FIRST NAME	BIRTHDATE	DATE & PLACE OF MARRIAGE	DATE AND PLACE OF TERMINATION OF MARRIAGE	
FORMER HUSBANDS OR WIVES (If none, so state)						
FAMILY NAME (For wife, give maiden name)		FIRST NAME	BIRTHDATE	DATE & PLACE OF MARRIAGE	DATE AND PLACE OF TERMINATION OF MARRIAGE	
APPLICANT'S RESIDENCE LAST FIVE YEARS. LIST PRESENT ADDRESS FIRST						
STREET AND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	FROM MONTH YEAR	TO MONTH YEAR
						PRESENT TIME
APPLICANT'S LAST ADDRESS OUTSIDE THE UNITED STATES OF MORE THAN ONE YEAR						
STREET AND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	FROM MONTH YEAR	TO MONTH YEAR
APPLICANT'S EMPLOYMENT LAST FIVE YEARS. (IF NONE, SO STATE) LIST PRESENT EMPLOYMENT FIRST						
FULL NAME AND ADDRESS OF EMPLOYER				OCCUPATION (SPECIFY)	FROM MONTH YEAR	TO MONTH YEAR
						PRESENT TIME
Show below last occupation abroad if not shown above. (Include all information requested above.)						
THIS FORM IS SUBMITTED IN CONNECTION WITH APPLICATION FOR:				SIGNATURE OF APPLICANT		
<input type="checkbox"/> NATURALIZATION <input type="checkbox"/> STATUS AS PERMANENT RESIDENT				DATE		
<input type="checkbox"/> OTHER (SPECIFY):						
Submit all four pages of this form.				If your native alphabet is other than roman letters, write your name in your native alphabet here:		

PENALTIES: SEVERE PENALTIES ARE PROVIDED BY LAW FOR KNOWINGLY AND WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT.

**APPLICANT:** BE SURE TO PUT YOUR NAME AND ALIEN REGISTRATION NUMBER IN THE BOX OUTLINED BY HEAVY BORDER BELOW.

COMPLET THIS BOX (Family name) (Given name) (Middle name) (Alien registration number)



should check “other” and write “in support of spouse’s I-130.” On your form, you should check “status as permanent resident.”

**Line 11 (If your native alphabet uses non-Roman letters):** Self-explanatory.

**Line 12 (The large box):** Self-explanatory.

## 2. Where to Send the Visa Petition

After your spouse—with your help—has prepared and assembled all the forms and other items on the checklist below, he or she should make photocopies for your records. Your spouse must send the packet to the USCIS Service Center for the region where he or she lives. Certified mail with a return receipt is the safest way to send anything to USCIS. The Service Center’s address is found in Appendix C. You can double-check this information on the USCIS website at [www.uscis.gov/graphics/fieldoffices/statemap.htm](http://www.uscis.gov/graphics/fieldoffices/statemap.htm).

## 3. What Happens After Sending in the Form I-130 Visa Petition

A few weeks after your spouse sends in your visa petition, he or she should get a receipt notice from the USCIS Service Center. The receipt notice will say how long the application is likely to remain in processing, which is usually at least three months and may well be a year or more. A sample receipt notice is included below.

Until the completion time predicted by the receipt notice, USCIS will ignore any letters from you or your spouse asking what is going on. These Service Centers seem like walled fortresses—you can’t visit them, and it’s almost impossible to talk to a live person there. If USCIS needs additional documentation to complete your application, they will send your spouse a letter asking for it. (See Chapter 15 for what to do if you don’t get a timely answer from the USCIS Service Center.)

Eventually your spouse will either receive a denial or an approval of the visa petition.

### a. If the Visa Petition Is Denied

If the visa petition is denied, USCIS will give you a reason for the denial. The fastest thing to do is to fix the problem and try again. For example, if the denial was because your petitioning spouse did not appear to be actually divorced from his or her previous spouse, your spouse would need to see a lawyer and obtain new and better documentation showing that there had been a final divorce. Then he or she could file a new visa petition.

### b. If the Visa Petition Is Approved

When your visa petition is approved, your spouse will receive a notice from the USCIS Service Center. An example of a visa petition approval notice is shown below. As you can see, it’s nothing fancy. But it is an important document. Make a few photocopies of it and store these and the original in safe places. Note the “Priority Date” listed in the box of that name—that will become very important in determining your place on the waiting list, as discussed in Section E below.

At the same time that the USCIS Service Center notifies your spouse of the approval of your visa petition, it will forward your case to the National Visa Center (NVC) in New Hampshire. This office will take over and maintain your file through the waiting period.

## 4. How to Use the Checklist for Step One: Visa Petition

This checklist lists every form, document, and other item included in the initial visa petition that your spouse, with your help, will need to assemble and submit to USCIS. By checking off the boxes as items are completed or found, your spouse will be able to ensure that nothing gets forgotten.



A copy of this checklist is available on the CD-ROM at the back of this book and as a tear-out in Appendix H.

## Sample Receipt of Application Notice

U.S. Department of Justice  
Immigration and Naturalization Service

## Notice of Action



RECEIPT NUMBER WAC-95-132-55555		CASE TYPE I130 IMMIGRANT PETITION FOR RELATIVE, FIANCE (E), OR ORPHAN
RECEIPT DATE April 13, 1995	PRIORITY DATE	PETITIONER A99 999 999 AGUILAR, JOSE
NOTICE DATE April 13, 1995	PAGE 1 of 1	BENEFICIARY AGUILAR, CLARITA
AMY F. LEE, ATTORNEY 555 PARKER ST. BERKELEY CA 94710		Notice Type: Receipt Notice  Amount received: \$ 80.00  Section: Husband or wife of permanent resident, 203(a)(2)(A) INA

The above application or petition has been received. It usually takes 89 to 90 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect. Our customer service phone number is listed below:

We will send you a written notice as soon as we make a decision on this case. You can also use the phone number below to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).

Please see the additional information on the back. You will be notified separately about any other cases you filed.  
IMMIGRATION & NATURALIZATION SERVICE  
WESTERN SERVICE CENTER  
P. O. BOX 30111  
LAGUNA NIGUEL CA 92607-0111  
Customer Service Telephone: (714) 643-4880



RECEIVED APR 17 1995



## Sample Visa Petition Approval Notice

U.S. Department of Justice  
Immigration and Naturalization Service

## Notice of Action

THE UNITED STATES OF AMERICA		
RECEIPT NUMBER WAC-95-132-55555		CASE TYPE I130 / IMMIGRANT PETITION FOR RELATIVE, FIANCE(E), OR ORPHAN
RECEIPT DATE April 13, 1995	PRIORITY DATE April 11, 1995	PETITIONER A99 999 999 AGUILAR, JOSE
NOTICE DATE June 26, 1995	PAGE 1 of 1	BENEFICIARY AGUILAR, CLARITA
AMY F. LEE, ATTORNEY 555 PARKER ST. BERKELEY CA 94710		Notice Type: Approval Notice Section: Husband or wife of permanent resident, 203(a)(2)(A) INA

The above petition has been approved. We have sent the original visa petition to the **Department of State National Visa Center (NVC), 32 Rochester Avenue, Portsmouth, NH 03801-2909**. NVC processes all approved immigrant visa petitions that need consular action. It also determines which consular post is the appropriate consulate to complete visa processing. NVC will then forward the approved petition to that consulate.

This completes all INS action on this petition. If you have any questions about visa issuance, please contact the NVC directly. The telephone number to NVC is (603) 334-0700.

The NVC will contact the person for whom you are petitioning concerning further immigrant visa processing steps.

THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

IMMIGRATION & NATURALIZATION SERVICE  
WESTERN SERVICE CENTER  
P. O. BOX 30111  
LAGUNA NIGUEL CA 92607-0111  
Customer Service Telephone: (714) 643-4880



RECEIVED JUL 06 1995

### Checklist for Visa Petition

- ☐ Form I-130 (see line-by-line instructions in Section D1a, above)
- ☐ Documents to accompany Form I-130:
  - ☐ Proof of the U.S. permanent resident status of your petitioning spouse, such as a copy of his or her green card (front and back) or of the stamp placed in his or her passport to indicate permanent resident status
  - ☐ Your marriage certificate (see Chapter 4, Section C, for how to obtain such documents)
  - ☐ Proof of termination of all previous marriages, yours or your spouse's, such as certificates of death, divorce, or annulment
  - ☐ One color photo of you (see Appendix E)
  - ☐ One color photo of your spouse
  - ☐ Fees: \$185 currently, but double check at [www.uscis.gov](http://www.uscis.gov)
- ☐ Form G-325A, Biographic Information, filled out by you (see line-by-line instructions in Section D1b, above)
- ☐ Form G-325A, Biographic Information, filled out by your spouse (see line-by-line instructions in Section D1b, above).

## E. The Waiting Period

Visa waiting periods are not set periods of time. Some attorneys tell their clients, "It will probably be two years." When two years go by and their green card hasn't come through, the clients worry that something has gone wrong. The truth is that waiting periods are only partly predictable. They depend on supply and demand, combined with monthly decisions by the U.S. government. You won't know for sure how long you'll have to wait until your wait is

almost over. This section will help you to understand the mechanics of this wait and how to deal with it.

### 1. Why You Are in Category 2A

USCIS ranks preference relatives, generally giving visas quicker to those at the top. Below, you'll see the complete list of preference relatives. As you'll see, you are in the second category down ("2A"). This means that the U.S. government has allotted a higher priority to your visa than to those of the people farther down the list. That may be small comfort as the months and years go by, however.

- **First Preference:** The unmarried sons or daughters of a U.S. citizen who are over 21 and are therefore no longer considered children. (If they were still children, they could qualify as immediate relatives, who are immediately eligible for visas.)
- **Second Preference:** The Second Preference category, which is where you fit, is actually made up of two subcategories, each with different waiting periods. In subcategory 2A are spouses or unmarried sons or daughters under age 21 of a permanent resident (green card holder). In subcategory 2B are the unmarried sons and daughters *over* age 21 of a permanent resident (they usually wait longer than 2As).
- **Third Preference:** The married sons or daughters, any age, of a U.S. citizen.
- **Fourth Preference:** The brothers or sisters of a U.S. citizen who is age 21 or older.

### 2. How Visas Are Allotted Year by Year

Each year, the U.S. government allots a certain number of immigrant visas in each preference category. For purposes of visa allocation, the government follows its fiscal year, which starts and ends in October. This might affect you if the government runs out of visas for your category before October. You'll know at that point that you have no chance

of advancing on the waiting list until the “new year” begins October 1.

Currently, the total worldwide numbers are:

- **First Preference:** 23,400, plus any visas not used for Fourth Preference
- **Second Preference:** 114,200, with 77% of these going to category 2A, 23% to category 2B
- **Third Preference:** 23,400, plus any not used for First and Second Preference
- **Fourth Preference:** 65,000 plus any not used for the first three preferences.

This may sound like a lot of visas, but far more people want immigrant visas than can get them every year. The government gives out visas month by month, making sure never to go over the annual limit.

There are also limits on the number of visas allowed for any one country. No more than 7% of the total visas each year can go to any one country, and often the percentage turns out to be less.

There are more complexities to the allocation and numbers of these visas, but a full understanding of these numbers won't help you speed up your waiting time. The important thing to know is how to chart your own place on the waiting list.

### 3. How to Chart Your Place on the Waiting List

It would be nice if you could just call the government and ask how long you have to wait for your green card. No such luck. Instead, the State Department publishes a monthly *Visa Bulletin*, the one source of information on visa waiting periods. The *Visa Bulletin* is accessible online at [http://travel.state.gov/visa\\_bulletin.html](http://travel.state.gov/visa_bulletin.html). The same information is available by phone at 202-663-1541, but you have to be quick with your pencil and paper because they talk fast.

The *Visa Bulletin* comes out monthly, around the middle of the month, but not on any particular day. Below is a sample of what a family-based chart in the *Visa Bulletin* looks like.

Although it's confusing at first glance, you will be able to make your way through this chart. Here's how:

1. Locate your preference category (2A) in the first column.
2. Locate your country across the top. China, India, Mexico, and the Philippines often have their own columns because of the large number of applicants—and as a result, people from these

Cutoff Dates for February 2004				
Family	All Chargeability Areas Except Those Listed	India	Mexico	Philippines
1st	08SEP00	08SEP00	15OCT94	01JUN90
2A	01MAR99	01MAR99	01AUG96	01MAR99
2B	08MAY95	08MAY95	15DEC91	08MAY95
3rd	15SEP97	15SEP97	08JAN95	15JAN90
4th	01APR92	22DEC90	01APR92	22JAN82



countries wait longer than others. All other countries are included in the second column called All Chargeability Areas Except Those Listed.

3. Draw a line across from your preference category (2A) and down from your country of origin. Where the two lines cross is what is called the Visa Cutoff Date—the key date which you will compare with your own Priority Date to chart your progress.

Every prospective immigrant has his or her own Priority Date—the date the INS or USCIS first received their Form I-130 visa petition. Your Priority Date is on the I-130 approval notice you received. Prospective immigrants whose Priority Dates are at or earlier than the Cutoff Date listed in that month's bulletin will become eligible for visas or green cards. The earlier your Priority Date, the better off you are, because it means you are in line ahead of other applicants. But as you can see, the current Cutoff Date doesn't tell you how long it will be before your own visa or green card is issued.

Look again at the example of the approval notice in Section D4, above. The Priority Date is in the box with the date of April 11, 1995.

The following examples should help you understand how to read the *Visa Bulletin* chart.

**EXAMPLE 1:** Toshiko is a citizen of Japan, married to a U.S. permanent resident.

Toshiko's husband submitted an I-130 for her several years ago and she received a Priority Date of February 12, 1999. What does Toshiko learn by looking at the *Visa Bulletin* chart? After locating the box for Japan (under All Chargeability Areas) in category 2A, she sees that the Priority Date that is now current is March 1, 1999.

That means that Toshiko, with her Priority Date of February 12, 1999 is now eligible for a visa. If you're confused by the fact that Toshiko's Priority Date isn't an exact match with the *Visa Bulletin* Cutoff Date, look at it this way: Earlier is always better. Toshiko's husband actually submitted her I-130 a few weeks before some other people who also became current under this month's *Visa Bulletin*. If this process were

like taking a number at the bakery counter, she would have become eligible for her visa (or get to choose her donut) a little before the people with March 1 Priority Dates. But the *Visa Bulletin* jumps by days and weeks worth of Priority Dates every month, so people get lumped into larger groups. Anyone with a Priority Date of March 1, 1999 or earlier is therefore considered to have become visa eligible, or "current."

**EXAMPLE 2:** Yumiko is also a citizen of Japan, who got married to a U.S. permanent resident more recently than Toshiko in the example above. Yumiko's husband submitted her I-130 on August 1, 2002, so that is now her Priority Date.

What does Yumiko learn by looking at the *Visa Bulletin* chart? She must look at the same box as Toshiko did, to see that the current Cutoff Date is March 1, 1999. But with Yumiko's Priority Date of August 1, 2002 she is certainly not current, and not yet eligible for a visa. It's safe to say there are a number of people in line ahead of her—just imagine how many spouses might have applied between 1999 and 2002! How long Yumiko might have to wait is discussed further in Subsection 4, below, "Figuring How Long You Will Wait."

If you follow the *Visa Bulletin* chart month by month, you might notice a couple of odd things. Sometimes the government gets backed up with visa applications and the Cutoff Dates just don't change. In the example above, it could be that Toshiko's Priority Date actually became current a month earlier, in January 2004—but she forgot to check it then, and the number didn't change. Sometimes the Cutoff Dates get stuck for months at a time, while the government deals with a backlog of visa applications. If the government hits a huge logjam, you may even see the Cutoff Dates go backwards.

Another odd thing you might see is a box that contains the letter C or U, instead of a date. The letter C (for "current") means there are plenty of visas in that category and no one has to wait. It's as if everyone's Priority Date suddenly were current. The

letter U (for “unavailable”) is the opposite, meaning that all the visas have been used up for that year. If, for example, this were February 2004, and Yumiko saw a U in her category 2A box, she’d know she could forget about getting closer to a visa until October 2004 (when the new year starts in the visa allocation process).

#### 4. Figuring How Long You Will Wait

To roughly determine how long you will have to wait for a visa, you can subtract the Cutoff Date on the current month’s *Visa Bulletin* chart from today’s date. So, for the Japan 2A category used in the example above, you would subtract 1999 from 2004. The waiting period for a visa would be approximately five years. (Or at least it was for people who applied in 1999.) There is no exact science to computing your probable wait.

#### 5. How to Deal With the Long Wait

You will probably feel like nothing at all is happening during the years that you wait for your visa to become available. But in fact, the Priority Dates will be inching forward, and there are steps that you should be taking to make sure that you can claim your visa as soon as it becomes available.

##### a. Organizing Your Papers and Checking the *Visa Bulletin*

After your U.S. permanent resident spouse files a visa petition for you, you will get your own approval notice; looking much like the one shown in Section D4, above. The approval notice will show your Priority Date. Take careful note of the date and keep the notice in a safe place.

Look in the current *Visa Bulletin* to get an idea of how long your wait will be. (See Section 3, above for how to find and read the *Visa Bulletin*.) If your wait looks to be three years, for example, for the first year and a half you probably don’t need to

check the *Visa Bulletin* more than every six months. Then start checking the bulletin every three months after that. As your Priority Date gets close to being current, you should check it monthly, so you can find out as soon as you are current and can make sure that the U.S. government realizes that you are current and still alive and interested, as explained below.



##### **You can ask to have the *Visa Bulletin* sent to you monthly, by email.**

This is a great way to make sure you don’t forget to check how your Priority Date is advancing. Complete instructions for how to subscribe to this service can be found toward the bottom of any *Visa Bulletin*.

##### b. If You Change Addresses

Don’t rely on the U.S. government to tell you when your Priority Date is current—the National Visa Center makes an effort, but some files will get buried in the shuffle. However, you’re guaranteed not to hear from them if they don’t know where to find you. Also, under rare circumstances, such as a major change in the U.S. immigration laws, the government may send out mass mailings that you also wouldn’t want to miss.

If either you or your petitioning spouse change addresses, the place to contact is the National Visa Center (NVC), which keeps your case file until your Priority Date is close to being current. Advise the NVC of your new address by writing to them at The National Visa Center, 32 Rochester Avenue, Portsmouth NH 03801-2909. You can also send them a fax at 603-334-0759. Be sure to include your case number from the INS or USCIS approval notice.

##### c. What to Do When Your Priority Date Is Current

One day, your Priority Date will be current—in other words, you’ll finally see the exact date of your original application, or a later date, on the *Visa Bulletin* chart. Then you’ll know that it’s time for

you to move forward in the process of getting your visa or green card.

When you see that your Priority Date is current, don't wait for the government to call you. If you don't hear from them within a few weeks, contact the National Visa Center (see Subsection b, above, for their contact information) and ask them to send you what's called the "Instruction Packet."

#### **d. What Happens If No One Notices Your Current Priority Date**

Some immigrants forget to check the *Visa Bulletin*, and their Priority Date becomes current without their noticing. Sometimes, the NVC has tried to notify them, but has only an old address. Or, the NVC may have failed to keep track of the person's file. These problems can delay or destroy a person's hopes of immigrating.

You have one year after your Priority Date becomes current to pursue your visa or green card. If you do not, the government assumes you have abandoned it—and will give your visa to the next person in line. You may have an argument for getting the visa back if the government completely failed to contact you, but it's better to avoid such situations altogether. Keep track of your own Priority Date and follow the procedures in Subsection c, above, as soon as your date, or a later date, is listed in the *Visa Bulletin*.

#### **e. Some Immigrants Can Wait in the U.S.**

If you have already waited for three years without your Priority Date becoming current, there is a slim chance you may be allowed to continue your wait in the United States. Congress made this possible for some people in December 2000 by creating a new visa, called the "V visa." The V visa allows waiting immigrants to live and work legally in the United States until their Priority Date comes up in the *Visa Bulletin* and they can finish their application for a green card.

However, to qualify for a V visa, your initial visa petition (Form I-130) would have to have been submitted to the INS by December 21, 2000. Also, be warned: If you leave the U.S., even with a V visa, you may still be subject to the three- and ten-year time bars when you apply to adjust status.

If you think you might qualify for a V visa, talk to a lawyer and check the USCIS website at [www.uscis.gov](http://www.uscis.gov).

### **6. How to Get Your Children Onto the Waiting List**

Like other immigrants, you can bring certain family members along when you come to the United States. Your children who are unmarried and under age 21 qualify as what are called derivative beneficiaries by having been named on your Form I-130. See Chapter 2, Section B, to review who counts as a child. As a practical matter, this means that your children won't need a separate visa petition to start off the process. They will share your Priority Date and place on the waiting list. (Eventually, however, they will have to fill out some forms of their own.)

As you'll see in Section 7, below, children can lose their derivative beneficiary status. For example, if your spouse becomes a U.S. citizen, or if children turn 21 or get married, the children would no longer be considered derivative beneficiaries and would have to find another way to immigrate. Section 7, below, will tell you which of these situations can be cured and how to cure them.

Be aware that if your derivative beneficiary children have children of their own, those children (your grandchildren) will not be considered your derivative beneficiaries. The law says that no one can be the derivative of someone who is already a derivative beneficiary. In this circumstance, the grandchildren would have to stay behind for at least a few years—a heartbreaking situation for some families. Unfortunately, there are no separate visas for grandchildren.

## 7. Changing Visa Preference Categories

Now that you know all about life as a 2A, you need to learn how to keep or improve on your visa category. It is possible for people to move into a different preference category, which will speed up or delay their waiting time. For example, you would get a visa quicker—by moving to immediate relative category—if your spouse became a U.S. citizen. Or, life changes can push people out of their visa category, and into a lower one or out of the race altogether. Here are the most typical situations affecting married couples and their children.

### a. If a Permanent Resident Petitioner Becomes a Citizen

If your spouse becomes a citizen, it is good news for you. You go from category 2A straight to immediate relative. This means that you jump off the waiting list and immediately move forward with your visa processing.

If your permanent resident spouse qualifies for U.S. citizenship, he or she would be wise to apply as soon as possible. Most permanent residents can apply within five years of receiving their residence (this changes to four years if your spouse received residency as a refugee or through political asylum). They must also be of good moral character, meet certain U.S. residency requirements, and be able to pass a test on the English language and U.S. history and government. (If you know that your spouse is going to become a U.S. citizen very soon, you should read Chapter 11 on Spouses of U.S. Citizens, Living in the U.S.)

If your petitioning spouse becomes a citizen, advise the government and send them a copy of your spouse's citizenship certificate and your I-130 approval notice. The National Visa Center (NVC) will upgrade your status to immediate relative. The sample letter below shows how to explain this fortunate turn of events.

### Letter Requesting Upgrade to Immediate Relative

123 Salmon Way  
Seattle, WA 98105  
(206) 555-1212

April 20, 200x

National Visa Center  
32 Rochester Avenue  
Portsmouth, NH 03801-2909

RE: Petitioner: Sam Washington  
Beneficiary: Marta Moscow  
Preference Category: 2A, Spouse of LPR  
Case Number:

Dear Sir/Madam:

I am the petitioner in the above case. I recently became a U.S. citizen. A copy of my citizenship certificate is enclosed. Please upgrade my wife, Marta Moscow, from category 2A to immediate relative, and proceed with consular processing. Thank you.

Very truly yours,  
*Sam Washington*  
Sam Washington

Encl: U.S. citizenship certificate



For more on the eligibility and procedural requirements for obtaining U.S. citizenship, see the USCIS website at [www.uscis.gov](http://www.uscis.gov) or *Becoming a United States Citizen: A Guide to the Law, Exam & Interview*, by Ilona Bray (Nolo).



**If your spouse becomes a citizen, and you have children who will be immigrating with you, be sure to read Subsection h, below.** For certain children, immigrating may now become more difficult.

### b. If the Petitioner and Beneficiary Divorce

If you and your spouse get divorced before you apply for your immigrant visa or green card, you are out of luck. The visa petition is cancelled and you and your derivative beneficiaries lose your green card eligibility.

There is an exception for immigrants who are victims of emotional or physical abuse by their spouse. They can file a special self-petition (Form I-360) any time until the divorce becomes final, or for two years afterward, if they can show that the divorce was related to the domestic violence. (These self-petitions are not covered in this book. Talk to a local nonprofit organization or consult an attorney. See Chapter 17 for suggestions on locating help.)

### c. If a Beneficiary Dies

If you were to die, your children would lose their opportunity for a visa as well—unless your spouse has filed or can file a separate petition for them in category 2A or 2B.

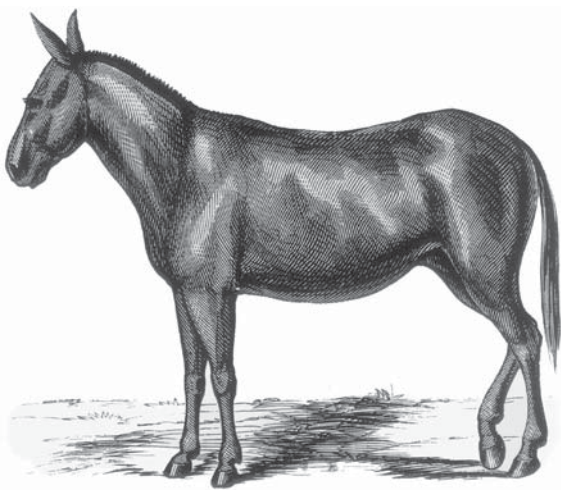
If your family is in this situation, the U.S. permanent resident petitioner should ask USCIS to “recapture” the deceased parent’s Priority Date when the permanent resident submits the new visa petitions. If USCIS assigns the deceased parent’s date to the children, the children won’t have to start the waiting game all over.

### d. If the Petitioner Dies

In most visa cases, the petitioning spouse’s death is a disaster for all beneficiaries awaiting visas. The death of the petitioner will cancel the visa petition. If you’re the spouse of a permanent resident, and he or she passes away, you and your children lose your right to a visa.

One rare exception has been made for the spouses and children (unmarried, under 21) of U.S. citizens. These beneficiaries can still apply for a visa or green card. This might help a family where the permanent resident is already eligible for citizenship, and has an illness from which they may not recover.

**EXAMPLE:** Olga was a 2A who had been on the waiting list for a green card for a few years, but her Priority Date was still far from current. Olga’s U.S. permanent resident husband developed cancer, and it became clear that he was not going to live. USCIS consented to an emergency citizenship interview just before he died. He passed the exam, and was sworn in as a citizen soon after. This allowed his wife and children to immediately apply for their green cards as his widow and children.



**Missouri**

State Animal: Mule



**In rare cases and for humanitarian reasons, USCIS may allow bereaved spouses of permanent residents to continue with their application even after the death of the petitioner.** This may also apply to others who aren’t eligible as widows and children of a U.S. citizen. However, you will need a lawyer’s help for this.



### **e. If the Petitioner Loses His Permanent Resident Status**

If the permanent resident petitioner loses the right to live in the United States, the immigrant applicants lose the right to live there also. In theory, permanent residence or a green card gives a person the right to live in the United States permanently—but this right can be taken away. If, for example a permanent resident spends many months overseas, USCIS may decide that he abandoned his U.S. residency and refuse to let him reclaim it. Or, if the petitioner commits certain crimes, his permanent residency could be taken away and he could be deported.

Even if a permanent resident has had a crime on his record for a long time, he may not be safe. Recent laws have allowed USCIS to deport people for crimes that would not have made them deportable when the crime was committed. Since the goal of the law is to reunite families, it makes sense that the government would refuse to grant immigrant visas to the family members of former permanent residents.

### **f. What Happens When a Child Beneficiary Turns 21**

If there is a chance that your child might turn 21 before his or her Priority Date becomes current, watch out! The minute a child hits the 21st birthday, he will automatically drop into a different visa category, from 2A to 2B. (The child can, however, subtract from his or her age the amount of time it took USCIS to approve the initial visa petition.) As a result, he'll face a wait of up to a few years before being eligible for a visa. This problem is known as "aging out." (However, if your child turns 21 after your spouse has become a U.S. citizen, his prospects may be brighter, as discussed below in Subsection h, and in Chapter 2, Section B.)

It can be very stressful when a child beneficiary is close to getting his or her visa or green card and is about to turn 21. But until your family's Priority Date has become current or your spouse becomes a U.S. citizen, there's nothing you can do.

### **g. What Happens When a Child Beneficiary Marries**

In preference categories 2A (children of permanent residents, under age 21) and 2B (children of permanent residents, over age 21), the beneficiaries must be unmarried. If your children marry, their beneficiary status is revoked forever. Their only hope is for you or your spouse to become a U.S. citizen and file a new petition for them later.

If you plan to bring along your children in either the 2A or 2B categories, make sure to advise them not to marry until after they get their green card. (USCIS may not find out about the marriage now, but it often catches such cases when the immigrant applies for U.S. citizenship—and then it strips them of their green card.)

### **h. What Happens to Your Children When Your Spouse Becomes a U.S. Citizen**

As you remember from Subsection a above, if your spouse becomes a U.S. citizen it will help you immigrate more quickly. The same is true for your children's immigration—but there's a twist. Children of U.S. citizens need to have their own visa petitions (Forms I-130) on file with the INS or USCIS in order to immigrate as the children of a U.S. citizen. They can't enjoy the benefits of that parent's new citizenship if they are merely named on their immigrating parent's petition.

When this whole process began, your spouse may have simply entered your children's names on the visa petition for you—which would have been enough for them to immigrate if he or she had remained a permanent resident. To put this in more technical terms, your children were eligible to immigrate as your derivative beneficiaries when your spouse was a permanent resident, but once your spouse became a U.S. citizen, they lost their derivative beneficiary status. They now need to have visa petitions of their own.

Fortunately, it's not too late for your spouse to file separate visa petitions for your children even after they become citizens. So long as the children are still unmarried, under age 21, and are your spouse's natural children or legal stepchildren (that is, the marriage took place before they turned 18), they qualify as immediate relatives just like you. As immediate relatives, they will be able to immigrate at the same time as you. It usually takes at least a few months for the new visa petitions to be approved, but for most children, it should all work out in the end. However, there are three groups of children who are, to varying degrees, still left out in the cold: those who have married, those who are not your spouse's legal stepchildren, and those who have turned 21.

**Children who have married.** Your children who have married could not have immigrated with you when your spouse was a permanent resident, so your spouse's citizenship doesn't actually make their situation worse. In fact, it could improve their situation if your spouse is the children's natural father or legal stepfather, because your spouse can file a visa petition for them in the Third Preference category.

**Children who are not your spouse's legal stepchildren.** As part of filing new visa petitions for your children, your spouse will have to prove that he or she has a direct relationship with each child, either as natural parent or legal stepparent. To be their or legal stepparent, your spouse will have to show that your marriage took place before the child turned 18. If it didn't, then that child cannot immigrate until you yourself become a permanent resident and file a Second Preference visa petition for your child.

**Children who have turned 21.** If your child has turned 21 and no separate visa petition was filed for him or her, you're in for some extra work. As with your other children, your U.S. citizen spouse can file a new, separate visa petition if he or she is the child's natural parent or legal stepparent—but if you don't alert them to the situation, your child won't become an immediate relative like you. Instead, the child will be put into the First Preference visa category, which is subject to annual quotas. The child will get a Priority Date, but it will be at the very end of the First Preference waiting list.

**EXAMPLE:** Ricardo, a U.S. permanent resident, filed an I-130 visa petition for his Mexican wife Soledad and their four children on January 2, 2001. Soledad got an approval notice showing her January 2, 2001 Priority Date. Because the children were named on the I-130 visa petition and Ricardo was a permanent resident, USCIS knew that the children were derivative beneficiaries and shared Soledad's Priority Date. But on February 3, 2004 Ricardo was sworn in as a U.S. citizen. No more derivative beneficiaries for this family; Ricardo must file a separate I-130 for each child. He does so, on February 10, 2004. That works fine for three of his children, who are under age 21—as minor, unmarried children of a U.S. citizen, they are still immediate relatives and immediately eligible for a visa, just like their mother. But the fourth child, Jorge, has since turned 21. Jorge's Priority Date is now February 10, 2004. If you look on the *Visa Bulletin* chart in Section 3 above, you'll see that in his category, Mexico First Preference, the current Priority Date is October 15, 1994. Jorge is facing an approximate ten-year wait for a visa. If Ricardo had planned ahead and filed a separate I-130 for Jorge in 2001 when he filed for the rest of the family, he could have shaved at least three years off Jorge's wait.

But this isn't fair! True enough. Luckily, there is a remedy for children in this situation. When your U.S. citizen spouse files the new visa petition, he or she can ask the USCIS Service Center not to put the child at the bottom of the waiting list, but to give them the same Priority Date as the rest of the family, even in this new category. In other words, your spouse asks USCIS to pretend that a separate I-130 visa petition was submitted for the over-21-year-old at the same time that the visa petition for the whole family was submitted, perhaps years ago.

This is called “recapturing” a Priority Date. Below is a sample letter showing how to ask for a recapture. The petitioner also needs to include complete copies of the original I-130 visa petition, the original

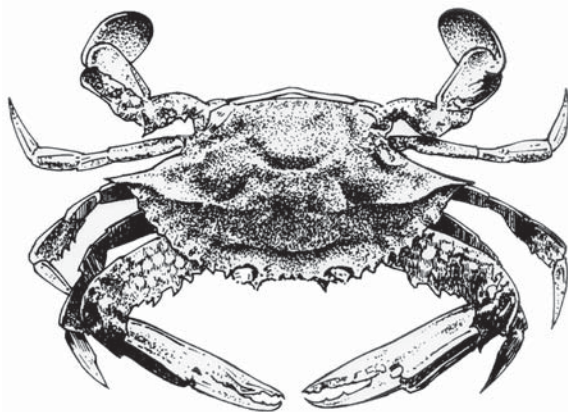
INS or USCIS approval notice showing the family's old Priority Date, and the petitioner's citizenship certificate.

Approval of recaptured dates is supposed to be automatic. Unfortunately, the USCIS Service Centers aren't used to this procedure and may pay no attention to your request—even if you write the most compelling letter and include complete documentation. You might get an approval notice showing a new Priority Date rather than your family's old one. Your only recourse would be to write many letters trying to get USCIS to correct the date.



**Plan ahead—submit separate I-130 visa petitions for any children who will soon turn 21.**

If you are at the beginning of the immigration process, and have children who may turn 21 before the process ends, or you know that your spouse is likely to apply for U.S. citizenship, you can avoid the hassles involved in recapturing Priority Dates. Your spouse should simply file separate petitions for them from the outset.



**Maryland**

State Crustacean: Blue Crab

## Letter Requesting Recaptured Priority Date

111 Seaside Lane  
Orlando, FL 32801

June 1, 200x

USCIS Texas Service Center

P.O. Box 850919

Mesquite, TX 75185-0919

*[See Appendix C for the address of the USCIS Service Center serving your geographic region.]*

RE: Petitioner: Ricardo Torres

Beneficiary: Jorge Torres

I-130 Visa Petition with Priority Date  
Recapture Request

Dear Sir/Madam:

I am the Petitioner named above. Enclosed please find an I-130 visa petition for the above-named Beneficiary (my son) with supporting documents, including:

1. Copy of my son's birth certificate
2. Copy of his mother's and my marriage certificate
3. Copy of my citizenship certificate
4. Fee of \$185 (money order).

*In addition, please note that I am requesting a recapture of an earlier Priority Date for this application. My son was formerly a Derivative Beneficiary on an approved visa petition that I filed for his mother in 2001, with Priority Date January 2, 2001. I recently became a U.S. citizen, and so my son lost his derivative status. Please grant my son the earlier, January 2, 2001, Priority Date on the approval of this I-130 petition. In support of this request, I also enclose the following:*

1. Copy of original I-130, showing my son's name
2. Copy of INS notice approving this I-130, with January 2, 2001, Priority Date.

Thank you for your attention to this matter.

Very truly yours,

*Ricardo Torres*

Ricardo Torres



### Your Next Step If You Entered the U.S. Legally

If you can stay in the United States legally through your waiting period:

When your waiting period is over and you are ready to adjust status, see Chapter 14 regarding adjustment of status application procedures.

If you plan on staying illegally, and can change status in the United States at the end of your waiting period (by being grandfathered in, or because your spouse becomes a U.S. citizen):

When your waiting period is over and you are ready to adjust status, see Chapter 14 regarding adjustment of status application procedures.

If you are interested in leaving the United States and applying for a marriage-based immigrant visa, and will not need a waiver of your visa overstay:

When your waiting period is over, see Chapter 8, Section A, regarding marriage visa application procedures for overseas spouses of U.S. lawful permanent residents (or Chapter 7, Section B, if your spouse becomes a U.S. citizen).

If you will have to leave the United States but will need a waiver to return:

See an attorney; Chapter 17 contains tips on finding a good one.



### Your Next Step If You Entered the U.S. Legally

If you plan on staying illegally and adjusting status in the United States (by being grandfathered in):

When your waiting period is over and you are ready to adjust status, see Chapter 14 regarding adjustment of status application procedures.

If you plan on leaving the United States and applying for a marriage-based immigrant visa, and do not need a waiver of your illegal stay in order to return:

See Chapter 8, Section A, regarding marriage visa application procedures for overseas spouses of U.S. lawful permanent residents (or Chapter 7, Section B, if your spouse becomes a U.S. citizen).

If you cannot adjust status and will need a waiver of your illegal stay in order to return:

See an attorney; Chapter 17 contains tips on finding a good one.



## Interviews With USCIS or Consular Officials

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The final step in obtaining your visa or green card is to attend an interview with a U.S. consular or USCIS official. Until the date of your interview, it's quite possible that neither you nor your U.S. fiancé or spouse will have had any personal contact with any immigration official. For that reason, many applicants approach the interview with needless fear. Below, we coach you on what to expect and how to treat the interview as important—without suffering it as an ordeal.

With all the paperwork you've submitted by now, you might think the government should be able to approve your visa or green card without having to meet you face-to-face. However, the government views the interview as its opportunity to confirm the contents of your application after you've sworn to tell the truth (even though you represented that the answers on your application forms were true and correct when you signed them). The interview also allows the government to ask questions that will test whether your marriage is real or a sham.

Whether you're submitting your application overseas or in the United States, most of the advice in this chapter will apply to you. Overseas applicants should also read Section C regarding unique practices at U.S. consulates. U.S.-based applicants should read Section D covering practices at USCIS offices.

## A. Who Must Attend an Interview?

Every hopeful immigrant can count on being required to attend an interview, whether they're applying for a fiancé visa, a marriage visa, or a green card. If you're applying for a green card at a USCIS office, your spouse will be required to attend the interview with you.

If you're applying for a fiancé or marriage visa from overseas, however, your U.S. fiancé or spouse is not required to attend the interview—but it's an excellent idea to do so. After all, one of the main topics of discussion will be a form your spouse filled out—the Affidavit of Support—showing your spouse's financial situation. If your spouse can confirm the contents of the affidavit in person, so much the better. And your spouse's willingness to

travel to be with you for this part of the immigration process is a pretty good way of showing that your marriage is not a sham.

A few applicants—or more likely their U.S. fiancés or spouses—may also be asked to attend a so-called fraud interview. This happens when USCIS or the consulate has suspicions that your marriage or intended marriage is not real. Preparing for fraud interviews is covered in Section E below.

## B. Preparing for Your Interview

The key to a smooth interview is preparation. If you haven't already done so, prepare all the appropriate forms and documents. For immigrants coming from overseas, these are the ones mentioned in the mailing that you got containing your consular appointment notice. For immigrants in the United States, these are the ones discussed in Chapter 14, Section F.

### 1. What to Review

In order to prepare for the oral part of the interview, your most important homework task is to review your paperwork. Look at the questions and answers on every form that you've submitted or that has been submitted for you, including the ones filled out by your U.S. citizen fiancé or spouse. Though they seem to contain only boring, dry bits of information, this information is loaded with meaning to a USCIS or consular official. The dates of your visits to different places, the financial figures, and your immigration history can all add up to a revealing picture in the official's eyes.

**EXAMPLE:** Leticia hates dealing with money issues, so she didn't read the Affidavit of Support that her husband filled out. And she didn't notice that her husband wrote on the form that he has "no dependents." At the interview, the officer observed, "It looks like your husband doesn't earn much. How will you be supported?" Leticia replied, "Oh, I'm sure we'll make do financially. After all, my husband's aging parents and orphan

nephew all live with him and don't work and he seems to support them just fine." Leticia just created a huge problem. It's now apparent that her husband lied on his Affidavit of Support and has several dependents. He is clearly less capable of supporting Leticia than it originally appeared. As a result, the consular officer may find Leticia inadmissible as a potential public charge.

The example above shows why you and your fiancé or spouse should review all the paperwork and forms carefully to be sure both of you understand them completely. If there have been any changes or you've noticed any errors since filling out the forms, be prepared to explain the changes and provide documents confirming the new information, if appropriate.

After you've reviewed your written work, spend some time with your fiancé or spouse reviewing the facts and circumstances surrounding your relationship, such as where you met, how your relationship developed, how you've corresponded or visited and when, and why you decided to get married.

If you're applying for a fiancé visa, be ready to explain your plans for your wedding and subsequent life together. If you're already married, recall what occurred at your wedding and how you settled into your marriage. The officer will ask you about these details in order to test whether you are truly establishing a life together, not just committing a fraud in order to obtain a green card.



**Your memory may let you down.** Even if you and your fiancé or spouse think you know and remember everything about one another, you each may remember things differently. Couples have been known to disagree to the tune of a hundred people regarding how many attended their wedding ceremony. And plenty of people can't remember what they did for their spouse's last birthday. The more you know about your shared history, the better prepared you'll be for the interview. You can make a game of testing each other on domestic facts: What color are the curtains in your house, how often do you see your in-laws, what's the name of your child's best friend. To help you with this game, take a look at the list of questions in Section F, below.

## 2. What to Wear

The interviewing officer's decision rests almost entirely on whether he or she believes that you're telling the truth. You'll come across as more sincere if you're dressed neatly, professionally, and even conservatively. Avoid T-shirts or jewelry with slogans or symbols that might make the officer wonder about your lifestyle or morals. In a word, we suggest that you dress as if you were going to visit your grandmother. Think about what you'll wear to your interview earlier than the night before, so that you're not up late with your ironing board.

**EXAMPLE:** Jon showed up at his interview wearing expensive leather shoes and, around his neck, a chain with a solid gold marijuana leaf dangling from it. The officer took one look at this and went right into questioning him as to whether he had ever tried, abused, or sold drugs. When Jon wouldn't admit to anything, she referred him for another medical exam. The doctor found evidence of drug use in Jon's bloodstream, and he was denied the visa.



**Iowa**

State Flower: Wild Rose

## C. Procedures for Consular Interviews

If you're coming from overseas, as a fiancé or spouse, your interview notice will tell you where and when to go for your visa interview. The appointment notice will look much like the one below.

### 1. Getting There Safely and On Time

If you don't live in the same city as the consulate, you'll want to arrive at least a few days in advance. You will need time to complete your medical exam (at a clinic designated by the consulate) and to get the test results back.

On the day of your interview, it's best to arrive early, in case there's a line. Don't be surprised if you have to wait beyond your scheduled appointment time—the consulates often schedule applicants in large groups, telling all the members of each group to show up at the same time.



#### **Beware of crime around U.S. consulates.**

Criminals know where the U.S. consulates are and they know that many people going for interviews are carrying large sums of money for visa fees. Take whatever precautions you think are appropriate in your country. Watch out for con artists who hang around the consulate, trying to convince people that they won't get through the front door unless they hand over some money first.

### 2. What the Consular Officials Will Do and Say

Here's what will happen when you arrive at the consulate for your interview. First, a clerk will check the packet of forms and other items that you've brought, to make sure you've brought all that's needed. You'll pay your application fee, currently \$335 for marriage visa applicants and \$100 for fiancé visa applicants. You can pay in U.S. dollars or in the currency of the country where the consulate is located. They may also collect the new Affidavit of Sup-

port review fee (currently \$65) from marriage visa applicants. (Some of you may have been required to send the fee with your Affidavit of Support to the National Visa Center.)

After these preliminaries, a consular officer will meet with you, place you under oath, and review the contents of your entire application. Don't expect a cozy fireside chat in the official's office. Many consulates now conduct interviews through bulletproof glass windows that make you feel like you're in a bank or a prison.

The officer will probably start by reviewing your forms and documents. He or she may ask you questions that are identical to the ones on your forms. Since you will have reviewed these carefully, this shouldn't be a problem—but if you can't remember something, it's much better to say so than to guess at the answer.

Next, you'll have to answer questions designed to test whether your marriage or intended marriage is the real thing. The officer will probably start by asking general questions, such as how you and your U.S. citizen fiancé or spouse met, when you decided to get married, and other facts regarding your visits or correspondence. If you're already married, the official may ask how many people attended the ceremony and how you've visited or corresponded with one another in recent years. If everything looks to be in order, the officer may ask only two or three questions—but he or she can ask more. If you have children in common, USCIS is much less likely to question whether your marriage is bona fide.

It's natural to feel embarrassed about sharing these personal details. It may be helpful to remember that the officers have heard it all by now. Their main interest is to see if you sound like a real fiancé or spouse. Again, it's advisable not to make guesses if you don't know the answer to a question. For example, if an officer asks you, "How many people attended your engagement party?" and you don't know or have forgotten, you could reply, "I don't remember the exact number." Even better would be to add a relevant detail that you do remember, such as, "But I can tell you that the guests drank 32 cases of champagne pretty quickly!"

**Interview Appointment Notice**

AMERICAN CONSULATE GENERAL - VISA SECTION  
LOPEZ MATEOS 924 N. P.O. BOX 10545  
CD. JUAREZ, CHIH, MEX. EL PASO, TX 79995

**IMMIGRANT VISA INFORMATION NUMBERS:**

FROM U.S.A. : 1-900-225-5520 (8:00AM-4:30PM, MOUNTAIN TIME)  
CHARGED TO CALLER AT US\$1.00 PER MINUTE  
FROM MEXICO: 01-900-849-7474 (8:00AM-4:30PM, MOUNTAIN TIME)  
CHARGED TO CALLER AT MEX\$10.00 (PESOS) PER MINUTE

Date: 14 Dec 2000

**ILONA BRAY  
950 PARKER STREET  
BERKELEY, CA 94610**

Dear LOPEZ, EMMA RUIZ DE:

This office is ready to begin final processing of the immigrant visa applicant(s) named below in this case. We have scheduled an appointment for a visa interview in the Immigrant Visa section on the date printed below. This letter must be presented upon your arrival at this office on the appointment date.

Please see the enclosed information for further instruction about the medical examination required for all intending immigrants. Be sure to read all the enclosed information and follow the instructions very carefully. When communicating with this office either by telephone or letter, please provide your name and case number exactly as shown in this letter.

Sincerely,

Chief, Immigrant Visa Branch

Visa Appointment  
Date Time  
\*\*\*\*\*  
29-Jan-2001 08:00

Medical Appointment  
Date Time  
\*\*\*\*\*

Case Number: CDJ5555555555  
Name (P) : LOPEZ, EMMA RUIZ DE

## Traveling Applicants:

(P)	LOPEZ, EMMA RUIZ DE	15-SEP-1961
(S)	LOPEZ PEREZ, JAVIER	12-MAR-1947
(C)	LOPEZ RUIZ, LUIS FERNANDO	31-AUG-1986
(C)	LOPEZ RUIZ, DIANA	24-MAR-1989
(C)	LOPEZ RUIZ, DANIEL	08-JUL-1995

Preference Category: F4 - MEX

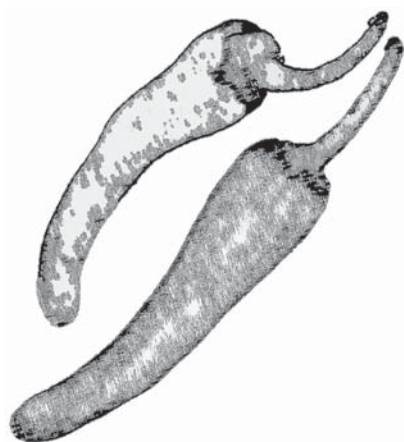
Encl: Packet 4



### If You're Pregnant at Your Fiancé Visa Interview

Don't worry if you're pregnant when you go for your fiancé visa interview—the consular officer will arrange to give the baby a separate visa if it's born before you depart for the United States. But believe it or not, before either of you are approved for the visa, the consulate will need to receive a written acknowledgment from your U.S. citizen fiancé that he is still willing to marry you. This appears to be based on the worry that your U.S. citizen fiancé may not be the father of the baby and may therefore change his mind about the engagement.

The interview can take as few as 20 minutes, in cases where the marriage is obviously real, all documents are in order, and the applicant doesn't fall into any of the grounds for inadmissibility. Don't panic if it lasts longer. If you find yourself getting nervous, remember to curb that understandable instinct to start babbling. People with real marriages have nevertheless gotten themselves into deep trouble by being unable to stop talking.



**New Mexico**  
State Vegetable: Chili Pepper

**EXAMPLE:** Arthur, a U.S. citizen, is attending a visa interview with his immigrating wife, Natalya. He's jet-lagged and anxious to have everything go well. He starts babbling to the officer, saying, "I'm so glad to finally be getting this over with. My family thought we'd never finish up. They keep teasing me about my 'mail order bride' and acting like I don't know what I'm doing. My little brother even asked me how much Natalya was paying me to marry her, can you believe it?" Unfortunately the consular officer is in the business of believing such rumors. Arthur's little speech means that he and Natalya have to endure a whole new and harsher round of questioning before her visa is finally approved.

### 3. Delayed Approvals

Officers rarely deny applications on the spot. If there are problems that can be corrected or if you are inadmissible but are eligible to apply for a waiver, they will normally ask you to provide additional materials. Politely ask that the officer or official to put any requests for more materials in writing, stating exactly what is needed and why. If there are any questions about the validity of your marriage, the consular officer may send your file back to the United States for investigation.

**EXAMPLE:** A U.S. consular officer in Guatemala told Estela that he couldn't approve her immigrant visa until she brought in her "sister's tax returns." What was the problem? No such tax returns existed, because the sister (who was helping sponsor Estela financially) hadn't even been working long enough to reach a tax deadline. Her lawyer in the United States wrote a letter explaining this, but the consulate continued to ask for these tax returns. Because Estela didn't have the consulate's original request in writing, this led to months of arguing back and forth, with the consular officials continually changing or forgetting what it was they were looking for.

Once the consul approves your application, marriage-based visa applicants will have to pay an additional visa issuance fee, currently \$100. Usually you have to return to the consulate later in the day to pick up your visa—which is actually a thick envelope stuffed full of all your supporting documents.



**Do not open the visa envelope!** You will give the envelope to the United States border officer when you arrive. The officer will examine the contents and do a last check for any problems. The border official, not the consulate, will place a stamp in your passport indicating that you are either a fiancé visa holder, a permanent resident, or a conditional resident.

## D. Procedures for USCIS Interviews

About 12 months after you submit your Adjustment of Status packet to a USCIS office, USCIS will schedule your interview. This could be your biggest day since your wedding: If the interview goes well—your marriage is obviously the real deal, you don't fall into any of the grounds for inadmissibility and your documents are in order—the interview can take as few as 20 minutes. If you have children in common, USCIS is much less likely to question whether your marriage is bona fide. You will be approved for permanent residence or conditional residence (if you've been married for less than two years or entered the United States on a fiancé visa).

The appointment notice will look much like the one below. Read the notice carefully—there's a chance that your local USCIS office has added requirements that were not covered in this book.

### 1. Arrange for an Interpreter

USCIS doesn't provide interpreters at interviews in the United States. A few of their officers speak Spanish or other languages, but you can't count on getting a bilingual officer, nor can you request one. If you're not comfortable in English, you'll need to bring a friend or hire an interpreter to help. Even if

your spouse is capable of interpreting for you, the USCIS office probably won't allow it, because it reduces their ability to compare your answers and detect marriage frauds.

The interpreter must be over 18 and fluent in both your language and in English. Some officers also require that the interpreter be a legal resident or citizen of the United States (of course, if they're here illegally, they'd be foolish to walk into a USCIS office).

### 2. What the USCIS Officials Will Do and Say

In spite of the fact that hundreds of very different couples are interviewed each day across the United States, these interviews tend to follow a pattern. Here's what will probably happen at your Adjustment interview, step by step.

1. After sitting in the waiting room with dozens of other couples for so long that you're sure they've forgotten you, you'll be summoned to the inner rooms of the USCIS Adjustments Unit.
2. Your fingerprint will be taken for use on the green card. The officer will use your index, or second, finger.
3. You'll be brought to the USCIS officer's desk, where your identification will be checked. Just when you're seated comfortably, you, your spouse, and your interpreter (if you've brought one) will have to stand up again, raise your right hands, and take oaths to tell the truth.
4. The officer will start by going through your written application, asking you about the facts and examining the medical and fingerprint reports for factors that might make you ineligible for a green card. As discussed earlier, this is one of the most important parts of the interview. You'll sign the application to confirm its correctness.
5. The officer will ask you and your spouse about your married life. At this stage, the questions will be polite ones, such as where you met, when and why you decided to get married,

## Sample Interview Notice



## U.S. Department of Justice

Immigration and Naturalization Service

District Director

*Appraisers Building  
630 Sansome Street  
San Francisco, CA. 94111*

JALEH ASSADI  
555 SUNRISE BOULVEVARD  
LOS ANGELES, CA 90005

A77 777 777

Dear Applicant:

Date: 12/22/2000

Please come to 630 Sansome Street, San Francisco, CA 94111, Room 200B for your adjustment of status interview. Because of limited seating, it is requested that only the petitioner and beneficiary (ies) appear at our office.

INTERVIEW DATE: 01/18/2001

TIME: 09:45 AM

DESK: 1 2 ( 3 ) 4 5 6 7 R/S SAS

**PLEASE PLACE THIS APPOINTMENT LETTER IN THE SLOT AT ROOM 200B AND BE SEATED. BRING THE FOLLOWING WITH YOU TO THE INTERVIEW:**

1. This notice, proper identification, Employment Authorization Card (if applicable).
2. Your passport and Arrival Document, Form I-94, (if applicable).
3. Any immigration document(s) that you have been issued, (such as ORIGINAL INS approval notices, advance paroles, etc.)
4. If your application is based upon a marital relationship, the petitioner **MUST APPEAR WITH YOU** with evidence supporting the relationship. Examples of acceptable evidence are: Joint income tax returns; insurance policies; photographs; rent contracts; escrow papers; bank statements; car titles, current letter of employment for you and your spouse (if applicable) showing rate of pay and hours per week; etc. Any other documentation you present will be given consideration before a final decision is made. The petitioner should bring original proof of U.S. citizenship or lawful permanent resident status (naturalization certificate, valid U.S. passport, U.S. birth certificate, alien registration card).
5. **◆All applicants who have filed an Affidavit of Support (Form I-864) with their application MUST BRING THE LAST 3 MOST RECENTLY FILED FEDERAL INCOME TAXES with Form W-2, and a current letter of employment for ALL SPONSORS included in the Affidavit of Support.**

IMPORTANT NOTICE

1. **IF YOU LEAVE THE UNITED STATES, YOU WILL NOT BE ALLOWED TO REENTER UNLESS YOU ARE IN POSSESSION OF AN IMMIGRANT VISA OR AN ADVANCE PAROLE DOCUMENT.**
2. **FAILURE TO KEEP THIS APPOINTMENT & FAILURE TO BRING THE REQUESTED DOCUMENTATION WILL DELAY YOUR CASE AND MAY RESULT IN THE DENIAL OF YOUR APPLICATION.**
3. **IF YOU DO NOT SPEAK ENGLISH, YOU MUST BRING A DISINTERESTED THIRD PARTY INTERPRETER TO THE INTERVIEW.**
4. Your attorney must accompany you to this interview if you wish to be represented.
5. Your interview may be video taped.
6. If you do not wish to surrender originals of any documents, you **MUST** bring copies of the originals.
7. Do not bring small children to the interview, unless they have an application filed on their behalf.
8. Please **BRING** your **ORIGINAL** birth certificate, as well as any original birth certificates of spouse/children.
9. Please **BRING** your registered marriage certificate, as well as evidence of the termination of all prior marriages.

Sincerely,

cc: ILONA BRAY  
950 PARKER STREET  
BERKELEY, CA 94710

Charles H. DeMore  
Acting District Director

how many people attended your wedding, or what you did on your most recent birthday or night out. You'll back up your answers with documents that illustrate the genuine nature of your marriage, such as rental agreements and joint utility bills. (Chapter 14, Section F, lists other persuasive documents you might use.)

6. If there's a problem in your application that you can correct by submitting additional materials, the officer will usually put your case on hold and send you home with a list of additional documents to provide by mail within a specified time. For example, if your spouse's earnings are insufficient, the officer may suggest you find another family member to sign an Affidavit of Support. Rarely does USCIS deny an application on the spot.
7. If the officer suspects that your marriage is fraudulent, however, a whole new step will be added to the process. You will meet the Fraud Unit. There, an officer will interview you and your spouse separately—and intensively. The officer will compare the results of your two interviews. For details on what to expect and how to prepare for a Fraud Interview, see Section E, below.



### **Truly married couples get called in for fraud interviews too.**

If, as we hope, your marriage isn't fraudulent, you may be inclined to skip the section below that addresses fraud interviews. However, couples whose personal characteristics or living situations already raise red flags in the eyes of USCIS might need to do some extra planning. The USCIS officers are on the lookout for couples who, for example, do not seem to share a common language; have large differences in their age, religion, class, cultural, or educational background; or who don't live at the same address.

At the end of the interview, if you are approved, a stamp will be placed in your passport as evidence of your conditional or permanent residence. Months later, your actual green card will arrive by mail. If you receive conditional residence, you'll have to file an application about 21 months from your approval date in order to progress to permanent residency.

## **3. Presenting Marital Problems at the Adjustment Interview**

The USCIS officer will be most likely to approve you for a green card if you're in a happy, traditional marriage. However, this doesn't mean that marital arguments or even living separately should lead the officer to deny your green card. If you have serious problems, be reasonably open about the cause and the detailed steps you're taking to deal with them (such as meeting with a marriage counselor or religious leader on a regular basis). Sometimes this is the strongest evidence of a real, bona fide marriage! If, however, the officer appears to wrongly believe that only happy marriages qualify you for a green card (which is not uncommon), ask to reschedule the interview so that you can bring a lawyer.

If you've actually received a legal separation (court ordered) or filed for divorce, however, your prospects for approval are dimmer. A legal separation or divorce filing will ultimately lead to a denial of your green card. There is an exception if your U.S. citizen or permanent resident spouse is subjecting you to abuse (physical or emotional cruelty). In that case, divorce will not destroy your green card eligibility if you file what's called a self-petition on Form I-360. You must do so before the divorce decree becomes final, or within two years of the final decree if you can show that the divorce was connected to the abuse.

The self-petition declares that since you're being abused, your spouse can't be counted on to help you through the green card application process. It allows you to start or continue the process on your own. Domestic violence situations and self-petitions are not addressed in this book. Talk to your local battered women's shelter or other nonprofit or charity organization; or see a lawyer if spousal violence is holding up your application. (See Chapter 17 for more on how to find a lawyer to represent you.)

## **E. The Fraud Interview**

If USCIS has serious doubts about whether your marriage is a real one, they will summon you and/or your fiancé or spouse for a fraud interview. A fraud

interview is similar to the initial interview, but includes questions that are far more probing and intense. Such interviews are usually held only in the United States. If you are overseas, your fiancé or spouse will have to attend the interview alone, and should read Section 3, below. If you are applying within the United States, however, USCIS will no doubt call both of you in for the fraud interview.

Being called for a fraud interview is definitely not a good sign. It means that your application has been singled out because it misses facts that would prove a real marriage, contains some inconsistencies, or presents grounds for suspicion. But if your marriage really is authentic, now's the time to show them.

## 1. Times When a Fraud Interview May Be Required

There are various times during the application process when USCIS may call for a fraud interview. These include after your spouse files the initial visa petition (Form I-129F for fiancés or Form I-130 for spouses) and after your USCIS or consular interview. If you haven't reached your second wedding anniversary by the time you're ready for residence approval, you'll get conditional residency, which lasts for two years—and a fraud interview can be scheduled during or at the expiration of that time, too.



**Applicants often get advance notice of a fraud interview—this is a good time to hire a lawyer.**

Ask the lawyer to attend the interview. The lawyer doesn't really have much power over the questions that the interviewee is required to answer, but can be a calming influence on everyone. Also, if the lawyer attends the interview, he or she will be better prepared to deal with any follow-up matters.

## 2. What They'll Ask

In the classic fraud interview, a USCIS officer puts you and your spouse in separate rooms and asks each of you an identical set of questions. Later, the officer compares your answers to see if they match

up. If you are applying in the United States, you can count on experiencing this type of interview.

If you are applying from overseas, the USCIS officer in the United States will probably not be able to interview you—and will have to settle for speaking to your fiancé or spouse alone. In that case, the officer will want to hear your fiancé or spouse give a realistic account of the development of your relationship. He or she will also try to spot any inconsistencies within your U.S. fiancé or spouse's story or between his or her story and the application forms and documents.

The person who attends the interview should be ready for any and all types of questions, from what you gave each other for your last birthdays to the form of birth control you use. The questions vary among different officers and different years. A list of possibilities is provided in Section F, below, but no official list exists (or if it does, it's well-guarded in the government's top secret files).



**Bring matching sets of house keys if you live in the United States.** USCIS officers have been

known to ask husband and wife to produce their house keys. The officer then compares them to make sure that they fit the same locks.

One San Francisco officer is reputed to be obsessed with how technology fits into the couple's life, asking questions about how many TV remote controls are in the couple's shared house and who keeps the garage door opener in their car. Others might be more interested in food—asking about your favorites and who cooks what. If your fiancé or spouse lives with you, try going through your daily routine, noticing all the details, such as:

- how often and what time you call each other by phone
- how many people attended your wedding (if you're married)
- which holidays you celebrate together
- your activities the last time one of you visited the other, and
- which of your financial matters are shared, or who (if either) supports the other financially.

If you're not yet married, and applying for a fiancé visa, the questions might also cover things like:



- how your families feel about your plans
- whether the families have met you or your fiancé
- how much time you've spent together, and
- whether you had an engagement party or made a formal announcement of your engagement to family and friends.

There are no limits to the possible questions.

Obviously, many of the questions in our sample list in Section F below are most suited to a couple who are already living together. For those of you who aren't yet living together, expect the officer to ask about times that the two of you have spent together.

### 3. How They'll Behave

Once you or your spouse gets to a fraud interview, you will have to meet with an officer whose main job is try to detect wrongdoers, not grant visas or green cards. The interviewer will not be trying to make you feel comfortable. His or her job is to push a person with questions until the person trips himself up, confesses to marriage fraud, or finally convinces the interviewer that the marriage is real.

Usually, straightforward, hard questioning is enough. Couples perpetrating a fraudulent marriage can do all the homework in the world, but when one of them forgets or doesn't know something very obvious—like where they went right after their wedding—it sticks out like a sore thumb. After that, the applicant often crumbles.

Occasionally, a hard-nosed USCIS officer will engage in harsher tactics, such as falsely telling someone that their spouse has already “confessed” that the marriage is bogus, in order to push the interviewee into confessing. Or, the officer may use flat-out intimidation, reminding the interviewee about the jail time and money fines a person faces if caught committing marriage fraud.

Sensing that the interviewee is feeling their lowest, the officer may ask him to sign something withdrawing the visa petition or stating that the marriage is a fraud. If your marriage really is an honest one, don't agree to or sign anything. Ask to stop the interview and to reschedule with a lawyer present.

### 4. How Your Spouse Should Handle an Interview Without You

If you are overseas and are not asked to attend the fraud interview, your U.S. fiancé or spouse will have to handle it on his or her own. He or she won't need to worry that the two of you share similar memories about your relationship—but will have to find other ways to demonstrate that your relationship is real.

A good way for your U.S. fiancé or spouse to prepare is to put him or herself in the USCIS officer's shoes. He or she should assume that the officer will be thinking some pretty cynical thoughts about you and your reasons for wanting to come to the United States. He or she should then think about what he or she can tell and show the officer to shatter these negative assumptions.

**EXAMPLE:** Kevin goes in for his marriage fraud interview. As he anticipated, the officer is wearing a look on his face that says, “This guy's 20 years older than the immigrant, they probably can't even speak each other's language, so they barely know each other and she'd never marry him if there weren't a green card in it for her.” Kevin has planned for this, however. He tells the officer about his and his beloved's unusual shared interest in wild horse training and describes their romantic first meeting while watching horse races on the Mongolian steppes. Kevin has mentally reviewed all the details of the time that he and she spent together and can tell the officer details about their conversations, what she wore, and the new foods that she introduced him to. And the kicker is when Kevin shows the officer his homework from the class he's taking to learn her native language. By the end of the interview, the officer's opinion has been completely turned around.

Your relationship probably didn't happen quite like Kevin's. But your fiancé can be as thorough as Kevin was in showing what makes his relationship special. With every couple, there are unusual facts and circumstances that you can use to show that the two of you are a real couple, not just a bad statistic.

## F. Sample Interview Questions

These are sample questions to help you prepare for your interview, whether it's a consular, Adjustment of Status, or marriage fraud interview. Remember, there is no guarantee that the interviewer will ask you all or any of these questions (though many of them are drawn from actual interviews). But these should get you and your fiancé or spouse started on the process of testing each other's memory.

### 1. Development of Your Relationship

- Where did you meet?
- What did the two of you have in common?
- Where did you go for dates?
- When did your relationship turn romantic?
- How long was it before you decided to get married?
- Who proposed to whom?
- Why did you decide to have a [long, short] engagement?
- Did your parents approve of the match? Why or why not?

### 2. The Wedding

- How many people attended your wedding?
- Did each of your parents attend?
- Where was the wedding held?
- Was there music or other entertainment?
- What kind of cake (or other food) did you serve?
- Who were the bridesmaids/groomsmen?
- How late did the guests stay?
- Did the bride change clothes for the reception?
- Did you serve liquor? What kind?
- Did anyone get drunk or otherwise embarrass themselves at the reception? Who? Describe.
- What time did you and the [bride or groom] leave the reception?
- Did you go on a honeymoon? When did you leave? How did you get there? What airlines?

### 3. Regular Routines

- Who gets up first? At what time?
- How many alarm clocks do you set in the morning?
- Who makes breakfast?
- What do each of you eat for breakfast?
- Does your spouse drink coffee in the morning?
- What time do the working spouse or spouses arrive home?
- Who cleans the house?
- What day is your garbage picked up?
- Who takes care of paying the bills?
- Do you have a joint bank account? Where?
- Do you have a cat, dog, or other pet? Who feeds it? Who walks it (or cleans its kitty litter box, cage, etc.)?
- Do you and/or your spouse attend regular religious services? Where?

### 4. The Kids

- Who picks up the children at school?
- Who packs lunches for the kids?
- What are their favorite toys/activities?
- What are their least favorite foods?
- Which children (if any) still use a car seat?
- What is your usual babysitter's name?

### 5. The Cooking

- How many times a week on average do you eat out?
- What is your favorite restaurant for special occasions? For weekly outings?
- Who does most of the cooking?
- Who does the grocery shopping? Where?
- Is there a particular food that you eat every week?
- What is your spouse's favorite/least favorite food?
- What color are the kitchen curtains?
- Do you have a barbecue grill? Do you use it?

## 6. Other Family Members

- Have you met each other's parents?
- How often do you see each other's parents?
- When was the last time you saw them? Where? For how long?
- On important holidays, do you buy individual gifts for your parents-in-law? Do they buy individual gifts for you?
- How do each of you get along with your parents-in-law?
- Which other members of your spouse's family do you see frequently? When was the last time you saw them? What did you do together?

- What color are your spouse's pajamas?
- Who sleeps on each side of the bed?
- What form of contraception (birth control) do you use?
- When was your wife's last menstrual period?
- Where do you keep your toothbrushes? What kind of toothpaste, soap, and shampoo does each of you use?
- Do either of you read or watch television before going to sleep? Do you have lamps next to your bed?
- Have you ever had an argument that resulted in one of you sleeping in another room? Who, and which room?

## 7. Home Technology

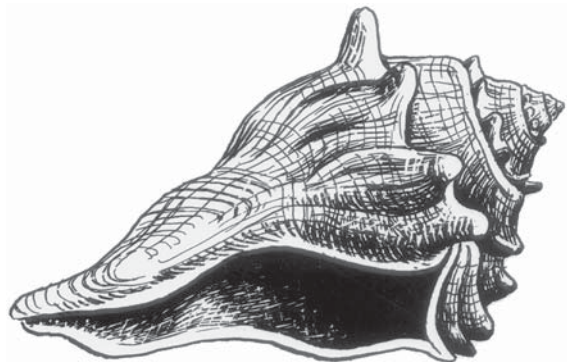
- How many telephones are in your house? Where are they?
- Do you have an answering machine on your telephone? Who checks the messages?
- How many televisions are in the house? In which rooms? Do you watch shows together, or separately? Name one show that you always watch together.
- Do you have a VCR? Do you use it only to watch videos, or do you record any television shows?
- Does your spouse listen to the radio? What station?
- How many cars do you have?
- Do you have a garage? Who parks in it? Do you use a garage door opener?
- Do you have a camera? Who uses it most often? Who takes pictures at important family occasions?

## 8. In the Bedroom

- What size is your bed (Twin, Queen, or King)?
- Do you have a regular mattress, futon, or waterbed?
- How many windows are there in your bedroom?

## 9. The Rest of the House

- Do you live in a home or apartment? Who pays the mortgage or rent? How much is it?
- Is there a carpet in your front hallway? What color?
- Is your sofa a regular one or does it have a pull-out bed? Have you ever had houseguests sleep there?
- What type of curtains or window coverings are in your living room? What color?
- How many staircases are in your house?
- How many sinks, toilets, and showers are there in your house or apartment in total?
- Do you leave any lights on when you go to sleep at night?



**New Jersey**  
State Shell: Knobbed Whelk

## 10. Celebrations

- When is your spouse's birthday?
- What did you do for your spouse's last birthday?
- How did you celebrate your most recent wedding anniversary?
- What religious holidays do you celebrate together?
- What's the most important holiday of the year in your household? Where do you typically celebrate it?
- Have you and your spouse gone to see a movie or other form of entertainment lately? When, and what did you see?
- What did the two of you do last New Year's Eve? Fourth of July?

## G. What to Do If an Interview Is Going Badly

Your chances of a smooth interview will be greatly increased by the advance preparation and organizing you're doing by using this book. Unfortunately, your efforts can't entirely guarantee a successful interview. A lot will hinge on the personality or mood of the government official.

It's important to have a balanced view of the USCIS and consular officers who will be interviewing you. They're human—and they know that part of their goal is to reunite families. Some of them can get downright sentimental as they look at your wedding photos. Certain immigration officers have been known to go out of their way to help people—for example, spending hours searching for something in a room full of old files; or fitting a person's interview into their schedule even when the person arrived two hours late. On the other hand, some officers can get downright rude or hostile, perhaps due to their heavy caseload or the number of marriage frauds they've uncovered. Remember that they hold much of the power—getting angry will get you nowhere fast. Remain respectful and answer honestly if you don't know or remember something. Never guess or lie.

Some immigrant applicants have heard wild rumors about how to win over a U.S. government official. One showed up for his USCIS interview wearing a loud tie covered with American flags. He interjected comments about America's greatness and what a terrific member of society he would be. Not surprisingly, the officer rolled her eyes and got irritated. Most USCIS officers just want to see someone who won't waste their time, has an orderly, clean case, and is legally eligible for the green card or other benefit.



**Try to get the officer's name.** USCIS and consular officers often don't tell you their name, but it may be shown on their desk. The best thing to do is politely ask their name at the beginning of the interview (not when things have already started to go badly, when they may get defensive). Then write the name down. This tidbit of information may become important later. For example, if you need to file a complaint, discuss the matter with a supervisor, or consult with an attorney, you'll have an edge if you know whom you dealt with. (An experienced attorney will know all the local USCIS officers by name and can better understand your description of what happened when he or she learns who was involved.)

Some officers are irate no matter how the applicant behaves. You might encounter an officer who makes irrelevant accusations, acts in a discriminatory manner based on your race or gender, becomes uncontrollably angry, or persists with a line of questions or statements that is completely inappropriate. If any of these things happens, ask to see a supervisor.

If things are going badly, you don't have to let the situation go from bad to worse, ending with an on-the-spot rejection of your application. To avoid letting the officer make a final, negative decision, offer to supply any information that the officer asked for, so that your case will be postponed ("pended" in USCIS lingo). When you get home, write down as many details as you can remember of the interview, while it's fresh in your mind. Then, consider consulting an attorney about your experi-

ence to learn what you can do to improve USCIS's reaction to your application. Even if you don't speak with a lawyer, write a letter to USCIS, asking that a supervisor consider the interviewer's conduct when making his or her final review of your case. Supervisors review all cases, but they will assume the officer acted appropriately unless you tell them otherwise.



**You can file a formal complaint against a USCIS**

**employee.** In recent years, USCIS has tried to improve its public image by making it possible to file a

complaint. Filing a complaint may not help your own case (the office you complain to is in Washington, DC, well-removed from your file); but it won't hurt, either—USCIS promises not to retaliate. There's even a form for your complaint: Form I-847 (included in this book).



Form I-847 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. ■



## Applying for a Green Card at a USCIS Office

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A. Documents and Information to Have on Hand .....	14/3
1. Your Sponsor's Tax Returns .....	14/3
2. Proof of Your Sponsor's Current Employment .....	14/5
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If you are married and living in the United States, you're one step away from becoming a U.S. permanent resident. Now you need to apply to your local USCIS office for a green card. Of course, like most things involving the USCIS bureaucracy, it's not as simple as it sounds.

The process of getting a green card in the United States is called Adjustment of Status. It involves paperwork and an interview. Most of your work will happen before you have any personal contact with USCIS. You'll prepare an Adjustment of Status packet, including various forms, documents, fees, a medical exam, and more. Some people go screaming to a lawyer as soon as they see the mountain of forms. Take heart—much of the requested information is routine and repetitive. You'll feel like an old pro by the time you're done.

After filing the Adjustment of Status packet, you'll wait about nine months for fingerprinting and another three months for an interview with USCIS. At or soon after that interview, you should be approved for residency.

This chapter guides you through the application process, all the way from compiling your application forms to waiting for your interview, and ends with information on getting green cards for your children. It explains:

- the documents and materials, such as copies of tax returns and photos, that you will need in order to complete your Adjustment of Status packet (Section A)
- how to fill out the USCIS forms, line by line (Section B)
- how to turn in the forms (Section C)
- how to handle vacations or moves while you wait for your interview (Section D)
- your fingerprint appointment (Section E)
- how to start preparing for your Adjustment of Status interview (Section F), and
- how to obtain green cards for your children (Section G).

You'll also want to read Chapter 13, which discusses what will happen at the Adjustment of Status interview and what questions to prepare for.

Even though you are still months away from getting the green card, applying for it will give you

some immediate rights. You can remain in the United States while USCIS works on your application, and you'll get a work permit, which will allow you to get a job during the Adjustment of Status process.



**Do not apply to adjust status until you are sure you are eligible to obtain a green card through this procedure.** If you are not eligible, filing the Adjustment of Status papers could trigger deportation procedures. Make sure you have read and followed the instructions in Chapter 11 or 12, whichever is appropriate to your situation, before applying to adjust status in the United States.

## A. Documents and Information to Have on Hand

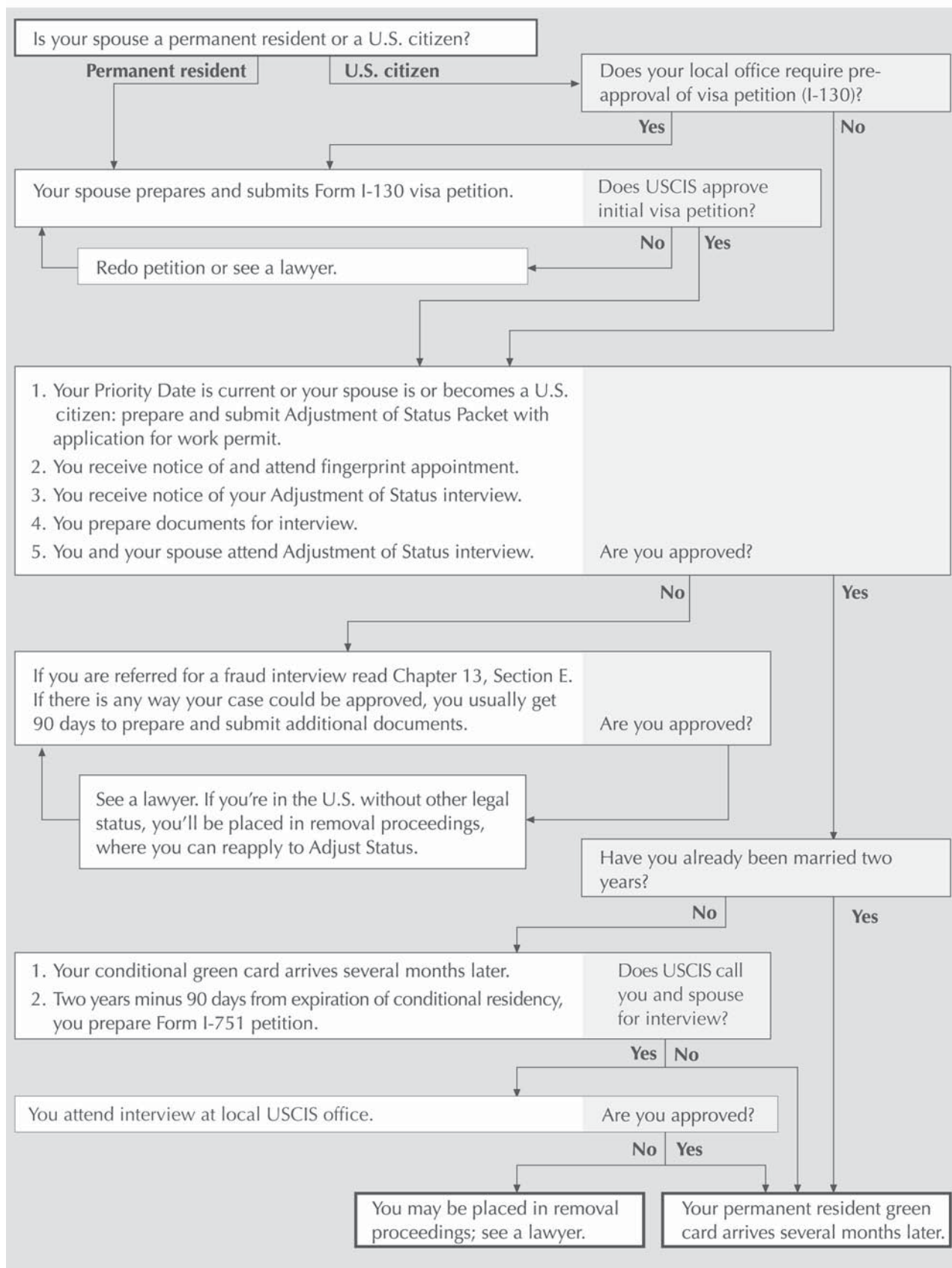
Before you begin filling out the mound of forms required by USCIS, it will be helpful to first assemble the documents and materials that must accompany the forms when you turn them in. Some of this requested material, such as copies of forms you've already filed, needs no explanation here; but other documentation, such as proof of your sponsor's employment, isn't so obvious. This section covers the materials that are not self-explanatory. At the end, there's a helpful checklist that shows all the documents and forms you'll need.

### 1. Your Sponsor's Tax Returns

Your spouse or other sponsor must be able to prove to USCIS that the sponsor can support you if necessary—and is willing to promise to do so. To fulfill these requirements, the sponsor(s) fill out an Affidavit of Support on Form I-864. In order to measure your sponsor's financial situation, USCIS will ask for a copy of your sponsor's federal tax returns for the last three years.

It's best not to simply photocopy the sets of returns. USCIS prefers to see your sponsor's federal tax returns in the form of an IRS transcript (an IRS-generated summary of the return that your sponsor

## Applying for Immigrant Visa in the United States (Married Applicant)



filed). Your sponsor can request a transcript using IRS Form 4506 (available from [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM).

You will not need to include state tax forms. However, you must include copies of your sponsor's W-2s, which are small print-outs from his or her employer showing total earnings over the last year (these are usually attached to the front of the tax return).



**Use photocopies of the tax returns if necessary.**

If the transcript hasn't come from the IRS by the time you need to submit the I-864 (the IRS often takes several weeks), use your sponsor's personal photocopies of his or her tax returns. You can always bring the transcripts to your interview.

## 2. Proof of Your Sponsor's Current Employment

As further proof that your sponsor will be able to contribute to your support, USCIS requires proof of his or her current employment. Start with a letter from the employer describing the dates of employment, nature of the job, wages or salary, time worked per week, and prospects for advancement. Also include copies of pay stubs covering the last six months, or the most recent stub if it shows

cumulative pay. If your sponsor is self-employed, a tax return is acceptable. If possible, add a business license, copies of current receipts, or other documents that will show USCIS that your sponsor runs a legitimate, ongoing business. Below, you'll find an example of a good employer's letter.

### Sample Letter Confirming Employment

Hitting the Road Trucking  
222 Plaza Place  
Outthereville, MA 90000

May 22, 200x

To Whom It May Concern:

Ron Goodley has been an employee of Hitting the Road Trucking since September 4, 200x, a total of over five years. He has a full-time position as a driver. His salary is \$45,000 per year. This position is permanent, and Ron's prospects for performance-based advancement and salary increases are excellent.

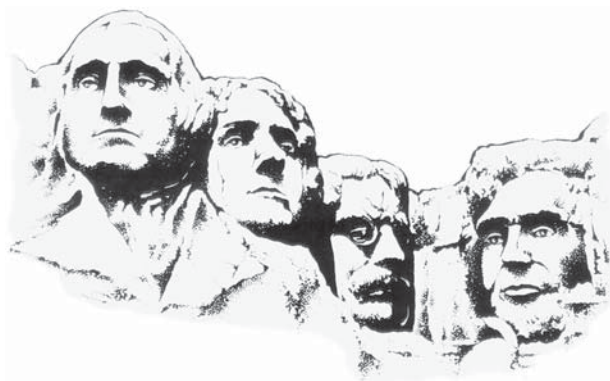
Very truly yours,

*Bob Bossman*

Bob Bossman

Personnel Manager

Hitting the Road Trucking



### South Dakota

Official Nickname: The Mt. Rushmore State

Mt. Rushmore is close to the geographic center of the United States

## 3. Proof of Your Sponsor's Assets and Their Value

Your sponsor's tax returns and proof of employment may be enough to convince USCIS that you'll be adequately taken care of. But if they're not, Form I-864 asks the sponsor to list any assets—your sponsor's or yours—that you will be relying upon as proof of financial adequacy. For example, if your spouse owns a home or other property, it will count toward meeting the income requirement. But listing these assets will not be enough by itself—the sponsor also have to prove that he or she owns them and supply evidence of how much they're worth.



- **Proof of ownership.** You or your sponsor can establish ownership by attaching copies of deeds or bills of sale. Skip ahead to pages 2 and 3 of Form I-864, “Evidence of Assets,” for a more detailed explanation of the types of documents USCIS will accept.
- **Value.** The value of an item must be the likely sale price today, not how much you or your sponsor paid for it. For real estate, use a current tax assessment to show the property’s value. If you believe that the assessment is too low, or for property other than real estate, hire a professional appraiser to prepare an estimate and report. For cars, however, you can use the value listed in the *Kelley Blue Book*. You can find the *Blue Book* in your local library or bookstore, or online at [www.kbb.com](http://www.kbb.com).
- **Remaining debt.** The asset-owner must also document the amount of any debt remaining on any listed asset. If no debt remains, submit proof of the final payment—most likely a receipt from a bank or lender.

#### 4. Eligibility of Your Sponsor’s Household Joint Sponsor, If Applicable

If your spouse does not meet the financial requirements of USCIS, he or she may get help from a relative who has lived in the same household for at least the last six months. This person will be known as a household joint sponsor. If necessary, your sponsor can enlist the help of more than one. On Form I-864, you’ll have to attach proof that:

- **The household joint sponsor(s) live with the primary sponsor.** You can use a copy of the rental agreement or lease showing the household member’s name; or you can use copies of the household joint sponsor’s documents that show the same address as the sponsor, such as a driver’s license, school records, utility bills, or personal correspondence, and
- **The household joint sponsors are related to the primary sponsor.** The best proof is a birth certificate. For example, if the sponsor and household joint sponsor are parent and child,

the child’s birth certificate will suffice. If they are brother and sister, the combination of both their birth certificates will work, since these certificates together show that they share the same parent or parents.

Keep in mind that for every household joint sponsor, you will need to provide federal tax returns, proof of employment, and proof of ownership and value of the joint sponsor’s assets (if you list any on the form), just as you did for your spouse and/or primary sponsor.

#### 5. Proof That You Are Eligible to Use the Adjustment of Status Procedure

USCIS will not accept your application at all unless you can satisfy them that you are among the few immigrants allowed to have their application processed by a USCIS office within the United States. There are three ways to meet this requirement.

- **You are married to a U.S. citizen and you entered legally.** To prove that you entered legally, include a copy of your passport, visa, and I-94 card. People who entered using Border Crossing Cards should photocopy both sides of the card. Proving your legal entry is extremely important. If you don’t have such proof, and aren’t otherwise eligible to apply from within the United States, don’t risk deportation—see a lawyer before going farther.
- **You didn’t enter legally or your spouse is only a permanent resident, but you gained the right to live and Adjust Status here through a V visa.** To prove that you have a V visa, include a copy of your approval notice.
- **You didn’t enter legally or your spouse is only a permanent resident, but you are grandfathered in.** For example, you might use the Adjustment of Status procedure if a visa petition was on file with the INS (as USCIS was then called) by one of the legal deadlines described in Chapters 2, 9, 11, and 12. To prove that you are grandfathered in, include a copy of the Form I-130 that was filed in time to grandfather you in, any proof of its mailing, and the subse-

quent INS approval notice. In addition, if you were grandfathered in based on an I-130 that was filed between January 14, 1998 and April 30, 2001, include proof that you were physically present in the United States before, on, and after December 21, 2000. Such proof might include copies of immigration stamps in your passport, hotel or rent receipts, medical records, school records, utility bills, tax returns, car registrations, traffic tickets, employment payroll documents, and anything else you think appropriate.

## 6. Fees

You'll need to submit the correct fee with your application. USCIS calculates its fees according to the particular forms you turn in, so you'll need to figure out which forms have fees associated with them and then add them up. At a minimum, you'll have to pay a fee with Form I-485, but if you're filing Forms I-485A or I-765, look for the fees that go with these as well. See Appendix A to tally up your fees; but because the fees go up frequently, double check them on [www.uscis.gov](http://www.uscis.gov).

You can write one check or money order to cover everything except the Form I-765 Employment Authorization request, which is handled separately. You can pay in cash if you're submitting your application in person, but be aware that many USCIS offices require exact change.

## 7. Using the Checklist for Adjustment of Status Packet

The checklist below lists every form, document, and other item that you and your spouse will need to gather and submit to USCIS as your Adjustment of Status (green card) application. As you get items ready, check off the appropriate box. That way you'll ensure that nothing gets forgotten.



The checklist for Adjustment of Status is on the CD-ROM at the back of this book and is a tear-out in Appendix H.

## B. Line-by-Line Instructions for Adjustment of Status Forms

Here are instructions for filling out the forms and suggestions on how to answer many of the questions. If you don't need to use one of the forms covered below, such as Form I-864A, which is filled out by a household joint sponsor, just skip it. It's a good idea to take another look at Chapter 4 for general instructions on printing and filling out USCIS forms.

### 1. Form G-325A, Biographic Information

The data you supply on this form will allow the U.S. government to check your background. Most of the form is self-explanatory. If you really can't remember or are unable to find out an exact date, enter whatever you can remember, such as the year. Alternately, you can simply say "unknown," but if you overuse the "unknowns," USCIS may return your entire application for another try. Since the questions aren't numbered, we refer to them by the approximate line.

This form is single-sided. When filled out by you, the immigrant, it should be submitted with four exact copies. Traditionally, the first page should be on white paper, and the next ones on pastel green, pastel pink, and pastel blue respectively. (When filled out by your U.S. spouse, it can be submitted as only a single copy on white paper.)

If your spouse already submitted the I-130 visa petition to a USCIS Service Center, the two of you will have already filled out Forms G-325A. Nevertheless, you (but not your spouse) will need to fill out another Form G-325A as part of your Adjustment of Status application. But if you haven't yet submitted the I-130 visa petition because you are allowed to include it with your Adjustment of Status packet, you, the immigrant, need to fill out Form G-325A only once.



Form G-325A is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of this form.

### Checklist for Adjustment of Status Packet

- ☐ One of the following:
  - ☐ a copy of the INS or USCIS approval notice if you already submitted Form I-130, Petition for Alien Relative (most likely in cases where your spouse is a permanent resident), or
  - ☐ a copy of your previously filed Form I-129F and USCIS approval notice (which you'll have if you entered the United States on a fiancé visa), or
  - ☐ Form I-130 itself, with additional documents and forms (which you should have completed according to instructions in Chapter 11 or 12, whichever was applicable)
- ☐ Form(s) G-325A, filled out by you, the immigrant, and by your spouse if he or she hasn't already submitted one (see Section B1, above, for line-by-line instructions)
- ☐ Form I-485, Application to Register Permanent Residence or Adjust Status (see Section B2, below, for line-by-line instructions)
- ☐ Form I-485, Supplement A (see Section B3, below, for line-by-line instructions), for people who must pay a penalty fee in order to use Adjustment of Status as an application procedure
- ☐ Form I-693, Medical Exam (unless you entered as a fiancé, in which case your earlier medical exam is all you need, and USCIS will have it on file); see Section B4
- ☐ Form I-864, Affidavit of Support Under Section 213A of the Act (see Section B5 for line-by-line instructions)
- ☐ Documents to accompany Form I-864:
  - ☐ A copy of your spouse or sponsor's federal income tax returns for the last three years, with W-2s
  - ☐ Proof of your sponsor's current employment
  - ☐ A list of assets (the sponsor's and/or the immigrant's), if they're being used to prove financial capacity
  - ☐ Proof of location and ownership of any listed assets (including the sponsor's and the immigrant's)
- ☐ A list of the financial need-based public benefits programs and dates of receipt, if sponsor or sponsor's dependents have used such programs within the last three years
- ☐ Form I-864A, Contract Between Sponsor and Household Member, if needed because primary sponsor lacks financial capacity
- ☐ Documents to accompany Form I-864A:
  - ☐ Proof that the household joint sponsors live with the primary sponsor
  - ☐ Proof that the household joint sponsors are related to the primary sponsor
  - ☐ Copies of the household joint sponsors' federal income tax returns for the last three years, IRS-generated copies preferred
  - ☐ Proof of the household joint sponsors' employment, such as an employer's letter confirming employment, or recent pay stubs
  - ☐ Proof of the ownership, value, and location of household joint sponsors' assets, if any were listed
- ☐ A list of the financial need-based public benefits programs and dates of receipt, if the household joint sponsors or their dependents have used such programs in the last three years
- ☐ WR-702, Processing Sheet for Form I-485 (see Section B7, below, for line-by-line instructions)
- ☐ I-765, Application for Employment Authorization (see Section B8, below, for line-by-line instructions)
- ☐ Proof that you are eligible to use the Adjustment of Status procedure
- ☐ A copy of your birth certificate, with certified translation (see Chapter 4 on how to obtain vital records)
- ☐ Two photos of you (see instructions on Form M-378 in Appendix E)
- ☐ Fees.

## Form G-325A, Biographic Information

U.S. Department of Justice  
Immigration and Naturalization ServiceOMB No. 1115-0066  
**BIOGRAPHIC INFORMATION**

(Family name)	(First name)	(Middle name)	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	BIRTHDATE (Mo.-Day-Yr.)	NATIONALITY	FILE NUMBER A-
ALL OTHER NAMES USED (Including names by previous marriages)			CITY AND COUNTRY OF BIRTH		SOCIAL SECURITY NO. (If any)	
FATHER MOTHER (Maiden name)						
FAMILY NAME		FIRST NAME	DATE, CITY AND COUNTRY OF BIRTH (if known)		CITY AND COUNTRY OF RESIDENCE.	
HUSBAND (if none, so state) OR WIFE						
FAMILY NAME (For wife, give maiden name)		FIRST NAME	BIRTHDATE	CITY & COUNTRY OF BIRTH	DATE OF MARRIAGE	PLACE OF MARRIAGE
FORMER HUSBANDS OR WIVES (if none, so state)						
FAMILY NAME (For wife, give maiden name)		FIRST NAME	BIRTHDATE	DATE & PLACE OF MARRIAGE	DATE AND PLACE OF TERMINATION OF MARRIAGE	
APPLICANT'S RESIDENCE LAST FIVE YEARS. LIST PRESENT ADDRESS FIRST						
STREET AND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	FROM MONTH	TO YEAR
						PRESENT TIME
APPLICANT'S LAST ADDRESS OUTSIDE THE UNITED STATES OF MORE THAN ONE YEAR						
STREET AND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	FROM MONTH	TO YEAR
APPLICANT'S EMPLOYMENT LAST FIVE YEARS. (IF NONE, SO STATE) LIST PRESENT EMPLOYMENT FIRST						
FULL NAME AND ADDRESS OF EMPLOYER			OCCUPATION (SPECIFY)	FROM MONTH	YEAR	TO MONTH YEAR
						PRESENT TIME
Show below last occupation abroad if not shown above. (Include all information requested above.)						
THIS FORM IS SUBMITTED IN CONNECTION WITH APPLICATION FOR:						
<input type="checkbox"/> NATURALIZATION			<input type="checkbox"/> STATUS AS PERMANENT RESIDENT			
<input type="checkbox"/> OTHER (SPECIFY):			SIGNATURE OF APPLICANT			
			DATE			
Submit all four pages of this form.			If your native alphabet is other than roman letters, write your name in your native alphabet here:			

PENALTIES: SEVERE PENALTIES ARE PROVIDED BY LAW FOR KNOWINGLY AND WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT.

**APPLICANT:** BE SURE TO PUT YOUR NAME AND ALIEN REGISTRATION NUMBER IN THE BOX OUTLINED BY HEAVY BORDER BELOW.

COMPLET THIS BOX (Family name) (Given name) (Middle name) (Alien registration number)

**Line 1 (Family Name, etc.):** Self-explanatory.

**Line 2 (Father/Mother):** Self-explanatory.

**Line 3 (Husband or Wife):** Self-explanatory.

**Line 4 (Former Husbands or Wives):** Self-explanatory.

**Line 6 (Applicant's Residence Last Five Years):** Be careful here. List these addresses in reverse chronological order, starting with your most recent address and working your way down the last five years. For example, if you live in Detroit now but lived in Ann Arbor before, your Detroit address will go on the top line. Practice making this list on another sheet of paper before you enter the information here.

**Line 7 (Applicant's Last Address Outside the United States of More Than One Year):** This may overlap with one of the addresses in Line 6—that's okay.

**Line 8 (Applicant's Employment Last Five Years):** As with Line 6, be careful to enter this information in reverse chronological order. If you've been unemployed, self-employed, or were a housewife or house-husband, say so here—in other words, try not to leave anything blank. If you're an immigrant who's been working illegally in the United States, identify your employers. To date, USCIS has not gone after the employers.



**Showing false documents is a ground of inadmissibility.** If you presented false documents to employers so that you could work illegally in the United States, such as showing a fake green card or Social

Security card, see a lawyer. Simply using a fake Social Security number, however, without showing a fake Social Security card, is usually not considered a problem.

**Line 9 (Show below last occupation abroad if not listed above):** People tend to overlook this line, because it's so small—make sure you fill it in.

**Line 10 (This Form Is Submitted in Connection With Application For):** Check "status as permanent resident."

**Line 11 (If your native alphabet uses non-Roman letters):** Self-explanatory.

**Line 12 (The large box):** Self-explanatory.

## 2. Form I-485, Application to Register Permanent Residence or Adjust Status

Form I-485 is the primary application used for immigrants adjusting status in the United States. It collects basic information about your identity and admissibility. Form I-485 is normally printed out two-sided, head to foot. The information on this form all refers to you, the immigrating beneficiary.



Form I-485 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.



**Connecticut**  
State Mammal: Sperm Whale



**Part 1:**

**Family Name** is your last name, or surname. Give your real address, not a mailing address. The **c/o** line is for people who have asked others to receive mail for them (unless you've asked someone to do so, leave this line blank). As with Form I-130, the questions regarding your arrival refer to your most recent entry to the United States. Your **Current INS Status** is the type of visa you're currently on, such as F-2 (student), "overstay" if the expiration date on your visa or permitted stay has passed, or "EWI" (entry without inspection) if you crossed the border illegally but somehow became eligible to use the Adjustment of Status procedure.

**Part 2:**

Put an "X" in **box a** if you did not use a K-1 fiancé visa to enter the United States (in other words, if you are either an immediate relative or a preference relative with a current Priority Date and a right to use the Adjustment of Status procedure). Put an "X" in **box c** if you entered on a K-1 fiancé visa and are

applying for your green card based on having married this fiancé in the United States.

**Part 3:**

Once you've filled out Form I-130, this section should be self-explanatory. Part of the purpose of **Question C** is to weed out terrorists. If you've been with an organization that has a violent wing or advocates violence, but were part of a nonviolent subgroup, list the organization and the subgroup by name. Otherwise, consult a lawyer. Incidentally, you can improve the USCIS officer's opinion of you by listing organizations that you have volunteered with, such as religious organizations, to show that you are a moral person.

For the questions on **page three**, hopefully your answers are all "no." If they aren't, don't lie—see a lawyer.

**Part 4:**

This time it's you, the beneficiary, who signs.

## Form I-485, Application to Register Permanent Resident or Adjust Status

U.S. Department of Justice Immigration and Naturalization Service		OMB No. 1115-0053 <b>Form I-485, Application to Register Permanent Resident or Adjust Status</b>	
<b>START HERE - Please Type or Print</b>			
<b>Part 1. Information About You.</b>			
Family Name	Given Name	Middle Initial	
Address - C/O			
Street Number and Name		Apt. #	
City			
State		Zip Code	
Date of Birth (month/day/year)		Country of Birth	
Social Security #		A # (if any)	
Date of Last Arrival (month/day/year)		I-94 #	
Current INS Status		Expires on (month/day/year)	
<b>Part 2. Application Type. (check one)</b>			
		<b>FOR INS USE ONLY</b>	
		Returned	Receipt
		Resubmitted	
		Reloc Sent	
		Reloc Rec'd	
		Applicant	

### 3. Form I-485, Supplement A

Not too many of you will need to complete this form. You'll complete it only if you are one of those few people who entered illegally, but are grandfathered in because you happen to possess an approved visa petition from a pre-January 14, 1998, or pre-April 30, 2001, filing (see Chapter 9, 11, or 12, whichever fits your current status, to review this issue). This form is normally printed out two-sided, head to foot.

**EXAMPLE:** Danuta came to the United States by flying to Canada as a tourist, then sneaking across the Canadian border in the trunk of someone's car. She entered without inspection, or illegally. Danuta married Johan, who was then a U.S. permanent resident. Johan began the application process for Danuta by filing a visa petition (Form I-130) for Danuta before January 14, 1998, and the petition was approved.

Luckily for Danuta, the date when Johan filed the visa petition is early enough that she is grandfathered into being eligible to use the Adjustment of Status procedure (apply for her

green card in the United States). Now Danuta's Priority Date is current. Danuta must use Form I-485 Supplement A and pay an extra fee in order to do her green card processing in the United States. But Danuta is lucky—many people with later-filed applications must process in overseas consulates, where the consequence of their illegal entry and stay is that they may be prevented from returning for three or ten years.



Form I-485A is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

#### Part A.

Review our instructions for Forms I-130 and I-485.

#### Part B.

Check only one box for each question.

#### Part C.

**Questions 1 and 2:** Your answer should be **No**.

### Supplement A to Form I-485

OMB No. 1615-0023 (Expires 05-31-05) <b>Supplement A to Form I-485</b> <b>Adjustment of Status Under Section 245(i)</b>	
U.S. Department of Homeland Security Bureau of Citizenship Immigration and Service	
<b>Only use this form if you are applying to adjust status to that of a lawful permanent resident under Section 245(i) of the Immigration and Nationality Act.</b>	
<b>Part A. Information about you.</b>	<b>BCIS Use Only</b>
<div style="display: flex; justify-content: space-between;"> <div style="width: 30%;">Last Name <input type="text"/></div> <div style="width: 30%;">First Name <input type="text"/></div> <div style="width: 30%;">Middle Name <input type="text"/></div> </div> <div style="margin-top: 5px;">         Address: In Care Of  <input style="width: 100%;" type="text"/> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 60%;">Street Number and Name <input type="text"/></div> <div style="width: 30%;">Apt. # <input type="text"/></div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 25%;">City <input type="text"/></div> <div style="width: 25%;">State <input type="text"/></div> <div style="width: 50%;">Zip Code <input type="text"/></div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 40%;">Alien Registration Number (A #) if any <input type="text"/></div> <div style="width: 60%;">Date of Birth (mm/dd/yyyy) <input type="text"/></div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 40%;">Country of Birth <input type="text"/></div> <div style="width: 60%;">Country of Citizenship/Nationality <input type="text"/></div> </div>	

**Part E.**

Sign your name.

#### 4. Form I-693, Medical Exam for Adjustment of Status Applicants

You'll need to have a medical exam unless you entered the United States on a K-1 fiancé visa. Applicants who entered the United States on K-1 fiancé visas and are now applying for a green card on the basis of their subsequent marriage can use the results of their earlier medical exam (done to get the fiancé visa). The results of that exam should already be in the local USCIS office's files, because they were included in the sealed packet of paperwork that served as the fiancé's entry visa.

You don't fill out Form I-693 yourself. Instead, you'll take it to a USCIS-approved doctor. The list of doctors is available from your local USCIS office or through the National Forms Line at 800-870-3676. The fee varies among doctors, so you might want to call a few before choosing one.

It's best to wait to have your medical exam done until you're almost ready to turn in your Adjustment of Status packet, since the results technically are good for only one year—and it may take a year or more to get your interview, even after submitting your packet. Current USCIS policy is to extend the validity of the exam results until the date of your interview, but that policy will expire in January 2005 unless extended, so it's best to play it safe.

For further description of the medical exam, see Chapter 2, Section A. Once all the results are in, the doctor will fill out the Form I-693 and return it to you in a sealed envelope. If you've given the doctor a version of the form that was photocopied or downloaded from the Internet, remind her to sign every page separately. Do not open the envelope—this will invalidate the results.

Print this form out one-sided (though it will have multiple copies).



Form I-693 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

### Form I-693, Medical Exam for Adjustment of Status Applicants

<b>U.S. Department of Justice</b> Immigration and Naturalization Service		OMB No. 1115-0134 <b>Medical Examination of Aliens</b> <b>Seeking Adjustment of Status</b>																					
(Please type or print clearly) <b><i>I certify that on the date shown I examined:</i></b>																							
1. Name (Last in CAPS) _____ (First) _____ (Middle Initial) _____		3. File number (A number) _____ 4. Sex _____ <input type="checkbox"/> Male <span style="margin-left: 100px;"><input type="checkbox"/> Female</span>																					
2. Address (Street number and name) _____ (Apt. number) _____ (City) _____ (State) _____ (Zip Code) _____		5. Date of birth (MM/DD/YYYY) _____ 6. Country of birth _____ 7. Date of examination (MM/DD/YYYY) _____																					
<b>General Physical Examination: I examined specifically for evidence of the conditions listed below. My examination revealed:</b> <input type="checkbox"/> No apparent defect, disease or disability. <span style="margin-left: 50px;"><input type="checkbox"/> The conditions listed below were found (check all boxes that apply).</span>																							
<table border="0" style="width: 100%;"> <tr> <td colspan="2"><b>Class A Conditions</b></td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> Chancroid</td> <td><input type="checkbox"/> Hansen's disease, infectious</td> <td><input type="checkbox"/> Mental defect</td> <td><input type="checkbox"/> Psychopathic personality</td> </tr> <tr> <td><input type="checkbox"/> Chronic alcoholism</td> <td><input type="checkbox"/> HIV infection</td> <td><input type="checkbox"/> Mental retardation</td> <td><input type="checkbox"/> Sexual deviation</td> </tr> <tr> <td><input type="checkbox"/> Gonorrhea</td> <td><input type="checkbox"/> Insanity</td> <td><input type="checkbox"/> Narcotic drug addiction</td> <td><input type="checkbox"/> Syphilis, infectious</td> </tr> <tr> <td><input type="checkbox"/> Granuloma inguinale</td> <td><input type="checkbox"/> Lymphogranuloma venereum</td> <td><input type="checkbox"/> Previous occurrence of one or more attacks of insanity</td> <td><input type="checkbox"/> Tuberculosis, active</td> </tr> </table>				<b>Class A Conditions</b>				<input type="checkbox"/> Chancroid	<input type="checkbox"/> Hansen's disease, infectious	<input type="checkbox"/> Mental defect	<input type="checkbox"/> Psychopathic personality	<input type="checkbox"/> Chronic alcoholism	<input type="checkbox"/> HIV infection	<input type="checkbox"/> Mental retardation	<input type="checkbox"/> Sexual deviation	<input type="checkbox"/> Gonorrhea	<input type="checkbox"/> Insanity	<input type="checkbox"/> Narcotic drug addiction	<input type="checkbox"/> Syphilis, infectious	<input type="checkbox"/> Granuloma inguinale	<input type="checkbox"/> Lymphogranuloma venereum	<input type="checkbox"/> Previous occurrence of one or more attacks of insanity	<input type="checkbox"/> Tuberculosis, active
<b>Class A Conditions</b>																							
<input type="checkbox"/> Chancroid	<input type="checkbox"/> Hansen's disease, infectious	<input type="checkbox"/> Mental defect	<input type="checkbox"/> Psychopathic personality																				
<input type="checkbox"/> Chronic alcoholism	<input type="checkbox"/> HIV infection	<input type="checkbox"/> Mental retardation	<input type="checkbox"/> Sexual deviation																				
<input type="checkbox"/> Gonorrhea	<input type="checkbox"/> Insanity	<input type="checkbox"/> Narcotic drug addiction	<input type="checkbox"/> Syphilis, infectious																				
<input type="checkbox"/> Granuloma inguinale	<input type="checkbox"/> Lymphogranuloma venereum	<input type="checkbox"/> Previous occurrence of one or more attacks of insanity	<input type="checkbox"/> Tuberculosis, active																				
<b>Class B Conditions</b> <input type="checkbox"/> Hansen's disease, not infectious <span style="margin-left: 50px;"><input type="checkbox"/> Tuberculosis, not active</span> <input type="checkbox"/> Other physical defect, disease or disability (specify below). _____																							
<b>Examination for Tuberculosis - Tuberculin Skin Test</b> <input type="checkbox"/> Reaction _____ mm		<b>Examination for Tuberculosis - Chest X-Ray Report</b> <input type="checkbox"/> _____																					

## 5. Form I-864, Affidavit of Support Under Section 213A of the Act

This is the place for your spouse to assure USCIS that you will be adequately provided for once you become a permanent resident. If your spouse's income is insufficient and there are no household members who can contribute, a separate sponsor from outside the household can fill out an additional Affidavit of Support on your behalf, also using the instructions below. This form is normally printed out two-sided, head to foot.



Form I-864 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.



**Need to prepare Affidavits for several family members at once?** If the sponsor is bringing in more than one person in the same process, such as you and your children, he or she can make copies of Form I-864 (and its supporting documents) after signing it. USCIS has sometimes required multiple originals instead. If you're advised to submit multiple originals, do so.

### Part 1:

This section is self-explanatory, as long as you remember that it's your petitioner/sponsor filling this out. Under **Place of Residence**, note that the address must be in the United States in order for the person filling this out to be eligible as a financial sponsor.

### Part 2:

Spouses check box **a**. Long-lost cousins, fairy god-mothers, and other nice friends who agreed to fill out this form as joint sponsors check box **d**.

### Part 3:

Self-explanatory. Note, however, that the list of children should include only those who will be immigrating with the immigrant spouse. If you mention any other children here, it will mean that the sponsor is agreeing to be sued if he fails to support them. In

particular, it is unnecessary to name children who were born in the United States, because the sponsor has no obligation support them (at least not under the immigration laws; though they will be counted elsewhere within this form to test the sponsor's overall financial capacity).

### Part 4:

**Section A, Sponsor's Employment:** The sponsor needs to fill in information about his/her employment. Self-employment is fine. Be aware that if a self-employed sponsor has underreported his income in the past, he or she may find that he or she doesn't show enough earnings to support you. In that case the person will need to file an amended tax return and pay a penalty before the newly reported income is accepted as meeting the income guidelines for sponsorship.

### Section B, Sponsor's Household Size:

**Question 1:** Count everyone in the sponsor's household except the immigrant spouse and any immigrating children, and insert the number on the line to the right.

**Question 2:** Count the number of people who weren't mentioned in Question 1, namely the immigrant spouse and any immigrating children.

**Question 3:** Count the number of other immigrants for whom the sponsor has signed a Form I-864 (and list them in the box below).

**Question 4:** Count the number of persons listed on the sponsor's tax return who were not already counted above.

**Question 5:** Add the people from Questions 1 through 4 and enter the sum.

### Part 4, continued on page 3:

### Section C, Sponsor's Annual Household Income:

Check the boxes to show what type of tax return the sponsor filed. If it was a joint return with the immigrant spouse, the sponsor must choose between two additional options, shown in the boxes immediately below. If the sponsor earns enough to meet the *Poverty Guidelines* on his or her own, the first box is the one to check. If, however, the immigrant spouse's income is necessary to meet the *Poverty Guidelines*, the second box is the one to check. As

an immigrant spouse, you may be able to disregard the instructions saying that the spouse must submit Form I-864A, which is necessary only if there are immigrating children to support as well.

Under **Sponsor's individual income** or **Sponsor and spouse's combined income** (depending on which line applies to your case), the sponsor is supposed to enter the income shown on his or her most recent tax return. But what if the sponsor's income has risen since filing those taxes? In that case, the sponsor should enter the more recent income figure, but put an asterisk (an "\*") next to it. Then find some white space somewhere on the page and write "this figure reflects present earnings, not earnings shown on tax return; see supporting documentation." The documentation the sponsor is already providing, such as an employer's letter, should be enough to show current income.

The line requesting **Income of other qualifying persons** is where the sponsor lists the household joint sponsors discussed above in Chapter 3—mem-

bers of the household who are willing to contribute their income to help meet the *Poverty Guidelines'* minimum requirements. If their income is not needed, there is no need to list these people here.

When you've totaled all the lines, insert the figure on the bottom line for **Total Household Income**.

#### **Section D, Determination of Eligibility Based on Income:**

**Question 1:** Unless you're in the military, put an X in the first box—you have no choice but to be subject to the 125% of poverty line requirement.

**Question 2:** Self-explanatory.

**Question 3:** Look at the *Poverty Guidelines'* chart at the back of Form I-864 and enter the year and the required amount for your household size. Then double-check to make sure this required income amount is less than the amount of income you entered under **Total Household Income**. If your sponsor's income isn't at or above the requirements, the sponsor will need to either:

### **Form I-864, Affidavit of Support Under Section 213A of the Act**

U.S. Department of Justice Immigration and Naturalization Service		OMB No. 1115-0214 <b>Affidavit of Support Under Section 213A of the Act</b>			
<b>START HERE - Please Type or Print</b>					
<b>Part 1. Information on Sponsor (You)</b>					
Last Name	First Name	Middle Name			
Mailing Address ( <i>Street Number and Name</i> )		Apt/Suite Number			
City		State or Province			
Country		ZIP/Postal Code	Telephone Number		
Place of Residence if different from above ( <i>Street Number and Name</i> )		Apt/Suite Number			
City		State or Province			
Country	ZIP/Postal Code	Telephone Number			
Date of Birth ( <i>Month, Day, Year</i> )	Place of Birth ( <i>City, State, Country</i> )	Are you a U.S. Citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Social Security Number		A-Number ( <i>If any</i> )			
		<div style="text-align: center; font-weight: bold; font-size: small;">FOR AGENCY USE ONLY</div> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top; border-right: 1px solid black; padding: 2px;">           This Affidavit   <input type="checkbox"/> Meets   <input type="checkbox"/> Does not meet             Requirements of            Section 213A         </td> <td style="width: 50%; vertical-align: top; padding: 2px;">           Receipt         </td> </tr> </table>		This Affidavit  <input type="checkbox"/> Meets  <input type="checkbox"/> Does not meet  Requirements of Section 213A	Receipt
This Affidavit  <input type="checkbox"/> Meets  <input type="checkbox"/> Does not meet  Requirements of Section 213A	Receipt				



- make up the difference by showing assets (see instructions coming up next)
- show that you, the beneficiary, can contribute assets (see instructions below, under Section F), or
- find a joint sponsor to submit an additional Affidavit of Support (as discussed in Chapter 3 Section A).

**Section E, Sponsor's Assets and Liabilities:** Complete this section only if the sponsor's income alone wasn't enough to meet the *Poverty Guidelines'* requirements. If the sponsor needs to add assets and they include items such as a house, car, or boat, remember to subtract debts, mortgages, and liens before writing down their value. *And remember that the value of these assets will later be divided by five before being used to meet the Poverty Guidelines' minimum.* If some of the assets being used to meet the minimum belong to the immigrant, attach a separate page describing these in the same format as this section E (and of course attach documents to prove their ownership, location, and value, as explained above in Section A3).

If the combination of the sponsor's household available income and one fifth of the sponsor's and/or the immigrant's assets don't yet meet the *Poverty Guidelines'* minimum, you'll still need to hand in this Affidavit. But you'll definitely want to look for a joint sponsor.

### Part 7:

The sponsor must not sign this until he/she is in front of a notary public. A notary public is someone who is legally authorized by your state government to check a person's identification and make sure that the person signing the document is the one who is named as the person who should sign. To convince a notary that he or she is the right person, your spouse or sponsor should bring a driver's license or other photo identification. The notary will stamp the form and shouldn't charge more than \$15 for this service. Notaries can easily be found by looking in the Yellow Pages of a U.S. telephone book.

## 6. Form I-864A

Not every sponsor needs to use this form. It is required only if, on the main Form I-864, the sponsor had to use the income of members of the sponsor's household to meet the *Poverty Guidelines*. In that case, the sponsor will have to ask these persons to fill out portions of Form I-864A. Then both the sponsor and the household member(s) will take the form to a notary public and sign it. The sponsor will attach Form I-864A to the main Form I-864. However, if the household member whose income is being counted is the immigrant spouse, he or she doesn't need to sign Form I-864A unless he or she is agreeing to support their immigrating children as well. This form is normally printed out double-sided, head to foot.



**Oklahoma and Tennessee**  
State Mammal: Raccoon



**Some USCIS offices will allow you to turn in an I-864 that does not meet the 125% of Poverty Guidelines minimum.** The theory is, that after you turn in the I-864, the immigrant will have a chance to legally work, and to bring up the family income level. (You'll have many months before your Adjustment of Status interview in which to find a job and start earning a regular salary.) It's worth attempting this at your local USCIS office, so as to avoid finding a joint sponsor.



Form I-864A is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

**Page 1 heading:** This is filled out by the household member (or the immigrant if necessary to support immigrating children). Self-explanatory.

**Part 1:** Self-explanatory.

**Part 2:** This part is filled out by the sponsor. Self-explanatory.

**Part 3:** This is filled out only by a household member who is not the immigrant being sponsored. Self-explanatory.

**Part 4:** Filled out only by a household member who is also the immigrant being sponsored, and who must join the Affidavit in order to support his or her immigrating children.

**Parts 5 and 6:** This is where the sponsor and the household member will each sign their names, in front of a notary public.

## Form I-864A, Contract Between Sponsor and Household Member

U.S. Department of Justice  
Immigration and Naturalization Service

### Contract Between Sponsor and Household Member

OMB No. 1115-0214

Sponsor's Name (*Last, First, Middle*)

Social Security Number

A-Number (If any)

#### General Filing Instruction

Form I-864A, Contract Between Sponsor and Household Member, is an attachment to Form I-864, Affidavit of Support Under Section 213A of the Immigration and Nationality Act (the Act). The sponsor enters the information above, completes Part 2 of this form, and signs in Part 5. The household member completes Parts 1 and 3 of this form and signs in Part 6. A household member who is also the sponsored immigrant completes Parts 1 and 4 (instead of Part 3) of this form and signs in Part 6. The Privacy Act Notice and information on penalties for misrepresentation or fraud are included on the instructions to Form I-864.

The signatures on the I-864A must be notarized by a notary public or signed before an immigration or consular officer. A separate form must be used for each household member whose income and/or assets are being used to qualify. This blank form may be photocopied for that purpose. A sponsored immigrant who qualifies as a household member is only required to complete this form if he or she has one or more family members immigrating with him or her and is making his or her *income* available for their support. Sponsored immigrants who are using their *assets* to qualify are not required to complete this form. This completed form is submitted with Form I-864 by the sponsored immigrant with an application for an immigrant visa or adjustment of status.

#### Purpose

This contract is intended to benefit the sponsored immigrant(s) and any agency of the Federal Government, any agency of a State or local government, or any private entity to which the sponsor has an obligation under the affidavit of support to reimburse for benefits granted to the sponsored immigrant(s). The sponsored immigrant(s) will have the right to seek

## 7. WR-702, Processing Sheet for Form I-485

This is a one-page form with information that USCIS will use at the final stage of processing your green card in the United States. USCIS usually refers to it as the ADIT Processing Form. The form may vary among local USCIS offices, but the one provided at the back of this book should work in most places. Some offices have stopped requiring this form. You can ask about it at your local USCIS office and can request one at 800-870-3676 (it's not available from the USCIS website). The questions themselves are self-explanatory. This form should be printed out one-sided, on a single sheet of paper.



Form WR-702 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of this form.



**Minnesota**

State Flower: Lady's Slipper

### Form WR-702, Processing Sheet for Form I-485

<b>DEPARTMENT OF JUSTICE</b> Immigration & Naturalization Service	<b>PROCESSING SHEET</b>
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <b>Application or Petition Form No.</b> _____         </div> <div style="width: 45%;"> <b>File No.</b> _____         </div> </div>	
<b>DATA COLLECTION FOR ALIEN DOCUMENTATION, IDENTIFICATION &amp; TELECOMMUNICATION SYSTEM (ADIT)</b>	
Please print or type information requested below:	
<b>COMPLETE NAME</b> _____	
<b>COMPLETE MAILING ADDRESS (Include zip code)</b> _____ _____ _____	
<b>MOTHER'S FIRST NAME</b> _____	
<b>FATHER'S FIRST NAME</b> _____	

## 8. Form I-765, Application for Employment Authorization

Applying for employment authorization is optional. If you're not planning to work, you can save the fee and skip it. On the other hand, the employment authorization card, or work permit, is a helpful piece of photo identification, which you can use to get a Social Security card and a driver's license. Print out the last page of this form (the only page you'll need to submit) one-sided.



Form I-765 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of this form.

Go straight to the last page of the form, which is the only page that you'll have to submit. If this is your first work permit, under **"I am applying for,"**

check "Permission to accept employment." If you've applied for a previous work permit (for example, if you're applying now as part of your green card application but previously applied for and received a work permit as a fiancé), check the box for renewals.

**Questions 1-14:** Self-explanatory.

**Question 15:** You are an "Adjustment Applicant" if you've already submitted the Adjustment of Status application for your green card.

**Question 16:** Your eligibility category as an Adjustment of Status applicant is (c)(9).

Don't be confused by the various mailing addresses contained in the instructions to this form. At the Adjustment of Status application stage, you don't have to mail Form I-765 anywhere. Instead, you'll take it with you when you submit your Adjustment of Status application to your local USCIS District Office, with the appropriate fee. USCIS will usually take the photos for you.

### Form I-765, Application for Employment Authorization

<b>U.S. Department of Justice</b> Immigration and Naturalization Service		OMB No. 1115-0163; Expires 04/30/05	
<b>Application for Employment Authorization</b>			
<b>Do Not Write in This Block.</b>			
Remarks  A#  Applicant is filing under §274a.12 _____	Action Stamp	Fee Stamp	
<input type="checkbox"/> Application Approved. Employment Authorized / Extended ( <i>Circle One</i> ) until _____ (Date). Subject to the following conditions: _____ (Date). <input type="checkbox"/> Application Denied. <input type="checkbox"/> Failed to establish eligibility under 8 CFR 274a.12 (a) or (c). <input type="checkbox"/> Failed to establish economic necessity as required in 8 CFR 274a.12(c)(14), (18) and 8 CFR 214.2(f)			
I am applying for: <input type="checkbox"/> Permission to accept employment. <input type="checkbox"/> Replacement ( <i>of lost employment authorization document</i> ). <input type="checkbox"/> Renewal of my permission to accept employment ( <i>attach previous employment authorization document</i> ).			
1. Name (Family Name in CAPS) (First) _____ (Middle) _____		11. Have you ever before applied for employment authorization from INS? <input type="checkbox"/> Yes (If yes, complete below) <input type="checkbox"/> No	
2. Other Names Used (Include Maiden Name) _____		Which INS Office? _____ Date(s) _____	
3. Address in the United States (Number and Street) _____ (Apt. Number) _____		Results (Granted or Denied - attach all documentation) _____	



## C. Submitting the Adjustment of Status Packet

Submit your Adjustment of Status packet to your local USCIS District Office. Many USCIS District Offices let you walk in with your completed Adjustment of Status packet and hand it to a clerk. An increasing number of offices insist that it be mailed in. Appendix D lists USCIS District Offices.



**You should have determined by now, based on the chapter that referred you to this one, whether your local USCIS office requires you to start by submitting the Form I-130 separately, to a USCIS Service Center.** If you haven't already figured this out, now is absolutely the time to do so, by talking to your local USCIS District Office.

### 1. Arrive Early

Your visit to the USCIS office promises to be a long one. Check the office hours before you go—they tend to open before any of us are awake and close in midafternoon. Very long lines are not unusual. At some offices, people camp out in line outside the night before.

To file an Adjustment of Status packet, most offices require that you start out in the general information line. Then they'll give you a number and direct you to more specialized waiting rooms or lines.

Even if you don't live in a city where camping out is a necessity, it's best to start early and pack a snack and a good book (choose a snack that you can eat discreetly—many of the offices prohibit food and drink, but they'll look away if you're eating something clean like an energy bar). Getting through the various phases of having your packet filed can take several hours.

### 2. Your Filing Receipt

Once USCIS has accepted your Adjustment of Status packet for processing and you've paid your fees, they will put you on the waiting list for an interview. Ask them how many months you are likely to wait. They will also give you a receipt. The receipt is a very impor-

tant document. It will probably look like the example below. Before you risk letting the dog eat it, make several photocopies and store them in secure places.

Among other things, the receipt will contain your A-number, which you'll need if you have to correspond with USCIS about your case. (Remember, USCIS is a big bureaucracy—your number will now become more important than your name.)

### 3. Applying for Work Permission

You can normally apply for a work permit, also called an Employment Authorization Document, on the same day you submit your Adjustment of Status Packet. However, it's a separate part of the process, and USCIS will direct you to a separate counter when they give you the receipt for the rest of the Adjustment of Status packet. If you're short of cash or don't want to apply for the work permit that same day, you can return on another day.

The work permit application includes the following:

- a copy of your Adjustment of Status filing receipt
- Form I-765 (which you probably already prepared, since it was on the Adjustment of Status checklist in Section A7, above, with line by line instructions at Section B8), and
- a filing fee (currently \$120).

Approval of your work permit will be practically automatic. The work permit is good for one year, but can be renewed if you haven't been called for your Adjustment of Status interview by that time. Below is an example of what your work permit will look like.



**Sample Work Permit**



## Sample Adjustment Filing Receipt



## U.S. Department of Justice

Immigration and Naturalization Service

District Director

Appraisers Building  
630 Sansome Street  
San Francisco, CA. 94111

Rene Magritte

A 88888888

RE: \_\_\_\_\_

DATE: 3-30-99


COA: IRG

Your application for adjustment of status has been accepted for processing. You have not been scheduled for an interview at this time. You will be notified of the date and time of your interview by mail at least two weeks in advance. In addition to the documents listed on the appointment notice, Please Bring The Following Documents To The Interview: **DO NOT MAIL THE DOCUMENTS TO THIS OFFICE PRIOR TO YOUR INTERVIEW.**

- 1) \_\_\_\_\_  
2) \_\_\_\_\_  
3) \_\_\_\_\_

**NOTICE TO APPLICANT:** WHILE YOUR APPLICATION IS PENDING, YOU MUST NOT LEAVE THE UNITED STATES UNLESS YOU RECEIVE WRITTEN APPROVAL FROM THE IMMIGRATION AND NATURALIZATION SERVICE before your departure from the United States. Failure to comply with this requirement will result in the denial of your application. If you do depart under an advance parole, your case cannot be approved until proof of your return is received by this office. **IN ADDITION**, if, after April 01, 1997, you were unlawfully present in the U.S. for more than 180 days before applying for adjustment of status, you may be found inadmissible under Section 212(a)(9)(B)(i) of the Act when you return to the U.S. to resume the processing of your application. If you are found inadmissible you will need to qualify for a waiver of inadmissibility in order for your adjustment of status application to be approved.

Sincerely,

  
Charles H. DeMore  
Acting District Director

US IMMIG AND NATZ SVC		0.00		0.00		220.00		25.00		245.00		220.00		25.00		6447002		14:44			
SAN FRANCISCO CA		780558134#		LASTNAME		MAGRITTE##		FRSTNAME		RENE##		I485REG		FD258		TTLAMT		H/O		H/O	
RETAIN THIS RECEIPT		03/30/99																		RETAIN THIS RECEIPT	

1 2 3 4 5 6 7 1999

### Current Waits at USCIS Offices (As of February 2004)

The following chart will give you an idea of how long you might wait for your USCIS interview. At some USCIS offices, the wait is nearly three years.

The average wait may also have changed by the time you read this, so don't make any decisions based solely on this chart.

USCIS Office (by U.S. City)	Average Wait in Months	USCIS Office (by U.S. City)	Average Wait in Months
Albany	5	El Paso	6½
Albuquerque	11½	Fort Smith	7
Anchorage	5	Fresno	8
Atlanta	31	Greer	34
Baltimore	9½	Harlingen, TX	17
Boise	12	Hartford	15
Boston	11	Helena	8
Buffalo	4	Honolulu	15
Casper	4½	Houston	20½
Charleston, SC	33	Indianapolis	11
Charleston, WV	9½	Jacksonville	12
Charlotte	12	Kansas City, MO	6
Charlotte Amalie	11	Las Vegas	12½
Cherry Hill	12	Los Angeles	10
Chicago	30	Louisville	3
Christiansted, VI	9	Manchester	6½
Chula Vista	9½	Memphis	30
Cincinnati	11	Miami	12½
Cleveland	16	Milwaukee	16½
Columbus	12	Newark, NJ	10
Dallas	14½	New Orleans	15
Denver	4½	New York	24
Des Moines	12	Norfolk	11
Detroit	14	Oklahoma City	19
Dover	14	Omaha	8½

### Current Waits at USCIS Offices (As of February 2004) (continued)

USCIS Office (by U.S. City)	Average Wait in Months	USCIS Office (by U.S. City)	Average Wait in Months
Orlando	33	San Diego	9
Philadelphia	14	San Francisco	8
Phoenix	34	San Jose	5
Pittsburgh	9½	San Juan, PR	11
Portland, ME	9	Santa Ana	3
Portland, OR	17½	Seattle	7
Providence	9	Spokane	7
Reno	9	Syracuse	4
Rochester	4	Tampa	24½
Sacramento	5	Tucson	18
St. Albans	7	Washington, District of Columbia (Arlington)	13
St. Louis	8		
St. Paul	13	West Palm Beach	18
Salt Lake City	14	Wichita	18
San Antonio	4	Yakima	18
San Bernardino	11		

## D. Moving or Traveling While Waiting for Your Interview

After you've submitted your Adjustment of Status packet you will wait, probably for many months, before hearing from USCIS again. Of course, your life continues on and you may want to move your residence or make travel plans. Read the material below before you do.

### 1. If You Change Addresses

You do not have to live in one place while waiting for your green card. However, your application will

go most smoothly if you and your spouse settle yourselves at a stable address and stay there. This will help ensure that you receive notices of important USCIS appointments (first for fingerprints, then for the interview). If you do move, you must tell USCIS in a letter. Address it to the "Adjustments Unit" of your local USCIS district office.

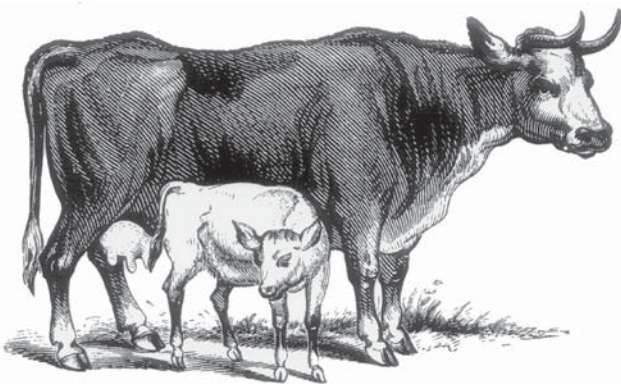
Be forewarned that USCIS is notorious for misplacing change-of-address notifications. So, as a backup plan, have your mail forwarded and check in regularly with the new people living in your former home. If you move to another city, your entire file may have to be sent to a different USCIS office. This always results in long delays. If you know before you file your Adjustment of Status application that

you'll be moving to a different city, it's wise to wait until after your move to file your application.

## 2. Traveling While Waiting for Your Interview

As the months of waiting for your Adjustment interview go by, you may want or need to visit your home country, to visit family or continue arranging your move to the United States, for example. You can travel, but must use great care. If you simply get up and go without getting official permission, the law says you will have given up (or abandoned, in USCIS terminology) your Adjustment of Status application. You will need to start all over.

The exception is if you arrived in the United States on a K-3 visa (a so-called “fiancé visa” designed especially for already married couples). People with K-3 visas can use these to reenter the United States as many times as they like until a decision has been made on their green card application.



### Wisconsin

State Domestic Animal: Dairy Cow

State Nickname: America's Dairyland

To protect yourself (if you don't have a K-3 visa), ask USCIS for advance permission to leave (called “Advance Parole”). Once you've received Advance Parole, your Adjustment of Status application will be preserved, including its place in line. Your trip shouldn't delay the processing of your application. In fact, you may be granted a multiple entry Advance Parole document, meaning you can take many trips within a certain time period.

### a. Qualifying for Advance Parole

Advance Parole used to be granted only for emergencies. Fortunately, USCIS has become far more lenient, recognizing the hardship caused by its own processing delays. Family visits or even a vacation with your spouse are usually considered an acceptable reason to leave the United States.

The form you'll complete will ask you to attach a page explaining how you qualify for Advance Parole and why your application deserves to be approved. This explanation doesn't need to be very long. You can simply write your name and A number at the top of a page and then say something like this: *“I qualify for Advance Parole because I am the spouse of a U.S. citizen awaiting my Adjustment of Status interview. I would like to travel to my native country to visit my sister, whom I haven't seen in years and who has just had a baby.”*

However, if you are traveling because of an emergency, it may help or speed up your application to explain and substantiate the crisis. For example, if it's a family medical emergency, provide a letter from your family member's doctor explaining your family member's condition and the need for your visit. (If the letter is in another language, be sure to have it translated; see Chapter 4, Section C, on how to translate documents for USCIS.)

### b. Be Cautious About Leaving

The Advance Parole document is your ticket back into the United States, but it is not a guaranteed ticket. Its function is to keep your Adjustment of Status application alive while you're gone—but it

won't protect you from being found inadmissible for any of the reasons on the list in Chapter 2, Section A. So if you have any doubts about your admissibility to the United States, don't leave at all.

Don't be alarmed, however, if upon returning to the United States, you are pulled into a separate line. This is called "secondary inspection," and it is the normal procedure for anyone returning with an Advance Parole document.



**Applicants who have spent time unlawfully in the United States should definitely not leave.**

If you've spent more than 180 continuous days unlawfully in the United States, don't even think of leaving. If you do leave, you will be barred from returning (discussed above in Chapter 2, Section A2, "Dealing With Unlawful Time in the United States"). Even getting permission in the form of an Advance Parole document won't overcome the problems discussed in that section. If your unlawful time in the United States was less than 180 days, it's still unwise to leave—the border control officer may not be able to count as well as you.

### c. Using the Checklist for Applying for Advance Parole

The checklist below details what you'll need to apply for Advance Parole. Mark off the relevant items as you complete or obtain them to make sure that you haven't forgotten anything. Then submit your application in person to your local USCIS District Office. If you're leaving due to an emergency, USCIS can prepare your Advance Parole document on the same day. However, USCIS prefers that you come in at least six weeks before you plan to travel.

The form you'll use for Advance Parole is Form I-131, Application for Travel Document. This form is largely self-explanatory. However, it is also used by applicants applying for other immigration benefits, so there are some portions that don't apply to you. The only parts that you need to fill out are Parts 1, 2 (put an X in box **d**), 3, 4, 7, and 8.



Form I-131 and its attachment are available on the CD-ROM at the back of this book and as a tear-out in Appendix G.

### Checklist for Applying for Advance Parole

- ☐ Form I-131
- ☐ Attachment to Application for Advance Parole
- ☐ A separate sheet of paper, in accordance with Part 7 of the application form, explaining how you qualify for Advance Parole and why your application deserves to be approved
- ☐ If you are traveling because of an emergency, evidence to prove it
- ☐ An original and one copy of the receipt notice you got when you filed your Adjustment of Status packet
- ☐ Copy of a photo ID, such as a driver's license
- ☐ Two photos of you, in accordance with Form M-378 in Appendix E
- ☐ Fee: currently \$165, but double check it at [www.uscis.gov](http://www.uscis.gov).

## E. Your Fingerprint Appointment

About nine months after submitting your Adjustment of Status packet to USCIS, you'll get an appointment for fingerprinting. In most cases, USCIS will insist that you be fingerprinted at a USCIS-authorized site. In some nonurban areas of the United States, USCIS also offers mobile fingerprinting vans. If you can't make it at the scheduled time, you can ask to be rescheduled.

Your fingerprints will be reviewed by the U.S. Federal Bureau of Investigation (FBI), which will check them against records held by the police as well as by USCIS (which often takes the fingerprints of people caught crossing the border illegally). The FBI will send a report to USCIS to confirm your identity and to show whether you have committed



## Form I-131, Application for Travel Document

<b>Department of Homeland Security</b> U.S. Citizenship and Immigration Services		OMB No. 1615-0013; Exp. 6/30/04 <b>I-131, Application for Travel Document</b>
<b>DO NOT WRITE IN THIS BLOCK</b>		<b>FOR CIS USE ONLY (except G-28 block below)</b>
<b>Document Issued</b> <input type="checkbox"/> Reentry Permit <input type="checkbox"/> Refugee Travel Document <input type="checkbox"/> Single Advance Parole <input type="checkbox"/> Multiple Advance Parole Valid to: _____ <b>If Reentry Permit or Refugee Travel Document, mail to:</b> <input type="checkbox"/> Address in Part 1 <input type="checkbox"/> American embassy/consulate at: _____ <input type="checkbox"/> Overseas DHS office at: _____	<b>Action Block</b>           	<b>Receipt</b>    <input type="checkbox"/> Document Hand Delivered On _____ By _____ <b>To be completed by Attorney/Representative, if any.</b> Attorney State License # _____ <input type="checkbox"/> Check box if G-28 is attached.
<b>Part 1. Information about you. (Please type or print in black ink.)</b>		
1. A # _____	2. Date of Birth (mm/dd/yyyy) _____	3. Class of Admission _____
4. Gender Male <input type="checkbox"/> Female <input type="checkbox"/>		
5. Name (Family name in capital letters) _____	(First) _____	(Middle) _____
6. Address (Number and Street) _____		Apt. # _____

## Attachment to Form I-131

<b>ATTACHMENT</b> <b>APPLICATION FOR ADVANCE PAROLE</b> (Form I-131)
Complete the following questions <b>ONLY</b> if you are applying for Advance Parole.
I have applied for permanent residence: <input type="checkbox"/> yes <input type="checkbox"/> no
Date of last entry to this country prior to filing application for permanent residence: _____ valid until _____.
My application was filed on: _____.
Nonimmigration status at time of filing for permanent residence:
<input type="checkbox"/> H-1 <input type="checkbox"/> H-4 <input type="checkbox"/> B-2 <input type="checkbox"/> B-1 <input type="checkbox"/> WT <input type="checkbox"/> WB <input type="checkbox"/> Illegal <input type="checkbox"/> Other: _____

any crimes or immigration violations that might make you inadmissible.



**If you think you might have a criminal record but aren't sure, consult a lawyer.** You won't discover until you get to your Adjustment interview what the FBI report says about you. The lawyer can help you request a separate fingerprint report from the FBI and deal with whatever it shows, to help you get your green card.

## F. Advance Preparation for Your Adjustment of Status Interview

Although you will wait several months for your Adjustment of Status interview, when the appointment letter finally comes it will probably give you a date only two weeks away—or less. For this reason, it is important to prepare yourself and your documents well in advance.



**Remember to read Chapter 13 for your final interview preparation.** It will give you a complete picture of what will happen at the interview and describes how to make it a success.

### 1. Positioning Yourself for a Good Interview

Your Adjustment of Status interview is most likely to go smoothly if you and your spouse live together for at least the year or so beforehand. Also, the two of you should combine as many practical aspects of your life as possible, including bank accounts, insurance policies, electric, plumbing, and other utility accounts, club memberships, and the ownership of cars, houses, and other major property. You can refer to all of these to prove that your marriage is real.

As you combine these parts of your life, pay attention to the paperwork that comes with them. Save those important contracts, receipts, and other forms of documentation. You'll want to take copies to your interview.



**If you've had to live apart, think about how you'll prove that you are still a true couple.** For example, if one of you has a job and the other is attending college ten hours away, living together won't be possible. While USCIS understands that such situations occur and won't automatically deny your green card on this basis, they will require additional proof that your marriage is real. You could show USCIS evidence that you spent holidays and vacations together and spent many hours conversing on the phone.

## 2. Assembling Documents for Your Interview

Preparation is the key to a smooth interview. You will want to arrive with a number of documents and other items in hand, as explained in the following subsections. Keep track of these items in the months leading to the interview and reread this section a few days before your interview. You'll also find a checklist below, to help you make sure you've assembled the right material.

### a. Photo Identification and Passport

You and your spouse will each need to present photo identification. Your passport is best. If you are approved for residency on the day of the interview, USCIS can stamp your passport on the spot. If you don't have a passport on that day, use a separate form of photo identification for the interview. You'll return on another day for the stamp. The U.S. citizen or permanent resident spouse usually presents a driver's license.

### b. Original Documents and All INS or USCIS Permits

Assemble the originals of the documents you used to enter the United States, and any other documents you've received from U.S. consulates or INS or USCIS offices (for example, an Advance Parole travel permit). Also, if you've mailed copies of documents

to USCIS, such as your marriage and birth certificates, bring the originals. Your spouse will need to bring the original proof of his or her U.S. citizenship status (a birth certificate, naturalization certificate, or passport) or permanent resident status (a green card or stamp in his or her passport). The officer may not ask for all of these, but you'll be glad you brought them if he or she does ask.

### c. Updates to Materials in the Application

Has anything important in your life changed since filing the Adjustment of Status paperwork? If, for example, you or your spouse have a new or different job, bring a letter from the new employer and copies of recent pay stubs. If you and your spouse have reached the two-year anniversary of your marriage since filing the application, be ready to remind the officer of this, so you'll be approved for permanent, not conditional, residency. If a tax year has passed, bring a copy of your latest tax returns (or better yet, an IRS transcript of these returns). And even if nothing has changed, prove that fact with a recent pay stub showing that the financial sponsor is still bringing in the income.

### d. Proof That Your Marriage Is Real

The interview is often the first opportunity that the USCIS officer has to decide whether your marriage is "for real." The documents that you show are important factors in the decision. They should show that you and your spouse's lives are intertwined and that you trust each other with your financial and personal matters.

Below is a list of documents most immigrants present. However, this list isn't engraved in stone. Use your imagination and be ready to do some organized "show-and-tell." No need to flood the officer with paper—copies of six items from this list would be a reasonable amount.

- rental agreements, leases, or mortgages showing that you live together and/or have leased or bought property in both spouses' names

- your mutual child's birth certificate or a doctor's report saying that one of you is pregnant
- utility bills in both your names
- joint bank statements
- joint credit card statements
- evidence that one spouse has made the other a beneficiary on his/her life or health insurance or retirement account
- auto registrations showing joint ownership and/or addresses
- joint club memberships
- receipts from gifts that you purchased for one another (these should be typical gift purchases, such as jewelry, flowers, or candy)
- letters from friends and family to each or both of you mailed to your joint address
- photos of you and your spouse taken before and during your marriage, including photos from your wedding. (USCIS knows wedding pictures can be faked, but many officers enjoy seeing them anyway.) The photos should, if possible, include parents and other relatives from both families. Write the date taken and a brief description of what the photo shows on the back (or underneath, if you're photocopying them). Don't bother with videos of the wedding or other events—there won't be time or a space to view them.

## 3. Using the Checklist for Adjustment of Status Interview

The checklist below lists all of the documents and other items that you are normally required to bring to your Adjustment of Status interview. By checking off each item as you collect it, you'll be sure that nothing gets left at home on your interview day.



A copy of this checklist is available on the CD-ROM at the back of this book and as a tear-out in Appendix H.

### Checklist for Adjustment of Status Interview

- ☐ Photo identification/passport
- ☐ Original documents for review/comparison with copies
- ☐ Updates to material in the application
- ☐ Proof that your marriage is bona fide.



#### **Photocopy every document you intend to bring.**

If there are new items you want to show the officer, such as bank statements or utility bills, he or she probably won't consider them unless you're willing to leave the document with the officer. You won't want to turn over your original documents to a USCIS file. Bring a copy along with the original.

## G. Green Cards for Your Children

This section contains an overview of the procedures for submitting Adjustment of Status applications for your children, but complete details (especially line-by-line instructions on filling out the forms for your children) are outside the scope of this book. But having filled out all the paperwork required for your own green card, you'll be well-positioned to complete these forms for your children. Of course, you might be more comfortable using a lawyer.

### 1. The Form I-130

If your spouse is a lawful permanent resident, then you have probably already dealt with Form I-130, and can skip to Section 2.

However, if your spouse is a U.S. citizen you will need to fill out a separate visa petition (Form I-130) for each child. Your child's application will be submitted to the same place as yours, either mailed separately to a USCIS Service Center or included

with the Adjustment of Status packet taken to your local USCIS office.

For the documents accompanying Form I-130, you'll be happy to hear that your children do not need to fill out Form G-325A, nor do they need to include their photos. Include copies of your and your spouse's marriage certificate, as well as copies of the children's birth certificates, to show the family relationships.

### 2. The Remainder of the Adjustment of Status Packet

Each unmarried child under 21 who wishes to get a green card along with you will have to submit a separate Adjustment of Status packet. This packet will be nearly identical to yours.

The child won't need a separately signed and notarized Affidavit of Support (Form I-864), but can submit a photocopy of yours. Of course, you'll want to make sure that the children's names are listed in your Form I-864 and that your spouse or other sponsor has shown enough income and assets to cover all the children.

Children under 14 need not be fingerprinted. Pay close attention to the fees; while a separate set of fees needs to be paid for each immigrant, the rates are sometimes reduced for children (see Appendix A).

As long as you submit your Adjustment of Status packet together with those of your children, you can expect to be interviewed at the same time. The children probably won't have to answer more than one or two questions at the interview.

### 3. If You Have Children Already Over 21 or Married

In some situations, your children may be unable to adjust status right away. For example, if your spouse is a permanent resident (not a citizen) and your child turns 21 before his or her Priority Date becomes current, then your child drops into a different visa category (2B) and must return to the waiting list before becoming eligible to adjust status. Or, if your

child has gotten married, he or she drops to a lower visa category if your spouse is a U.S. citizen, and becomes completely ineligible for a green card if your spouse is a permanent resident. Do not even try to submit an Adjustment of Status packet for them at the same time as yours under such circumstances. They could be placed in deportation proceedings if they are not in the United States legally.

Hopefully your spouse has already submitted separate Forms I-130 to a USCIS Service Center for any children eligible to immigrate (see discussion of eligibility in Chapter 2), thereby placing them on a waiting list for a future green card.



**A lawyer can help you evaluate the rights of your children over 21 to immigrate, and prepare the applications if necessary.** Chapter 17 tells you how to find a good lawyer.



Your approval for U.S. residency is cause for celebration, but not necessarily the end of your dealings with USCIS. If you were given conditional, not permanent residency, you will need to apply for permanent residency in approximately 21 months (see Chapter 16 for instructions). Also read Chapter 16 on how to protect and enjoy your U.S. residency. ■



## Dealing With Bureaucrats, Delays, and Denials

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If you think your visa petition or green card application is taking too long, welcome to the crowd. You are one of thousands of people applying for immigration benefits, and all of you are simultaneously dealing with governmental agencies that are often slow and inefficient. And if you think your application has been unfairly denied, you're not alone in this, either.

Fortunately, there are steps you can take—before, during, and after the application process—that will minimize the chances for delay or denial. This chapter discusses

- how to anticipate and deal with problems during any part of the immigration process (Section A), and
- how to respond to negative decisions (Sections B and C).

## A. Anticipating and Dealing With Delays

In view of the number of people applying for visas and green cards, it's almost guaranteed that your application will spend some time in processing limbo. As an example, in early 2002 the INS (now called USCIS) reported that around 122,000 people had been waiting three or more years for decisions on the I-130 Visa Petitions. Although you can't prevent delays, you can anticipate them and be ready to deal with them when the time comes.



### **Don't even think of bribing a U.S. government official.**

Although there are countries where the only way to get anything from a government official is to offer cash or other gifts, the United States is not one of them. Personnel at USCIS and the consulates may sometimes be difficult, but it's generally not because they're expecting money. In fact, most of them are proud of the fact that the United States operates strictly according to the rule of law. Offering a bribe will most likely hurt your chances of getting a green card or visa.

## Behind the Scenes

Reporters for *The Oregonian* newspaper visited the immigration Service Center in Burlington, Vermont, and found “crates of files teeter[ing] along the walkways between overstuffed cubicles. Even with new computers, the center relies on time-tested filing techniques. ‘I don’t know what we’d do without hand trucks and milk crates,’ says Paul E. Novak, Jr., director of the Vermont Service Center.”

The reporters also described a 1998 case in which “officials stored 30,000 files in a storage room where workers later found asbestos. A crew had to seal off the room—but the INS didn’t bother to notify the applicants.” (See “INS Bureaucracy, Blundering Create ‘Agency from Hell’,” by Brent Walth and Kim Christensen, *The Oregonian*, Monday, December 11, 2000.)

Although the name has changed, the USCIS has inherited most all of the INS’s antiquated facilities and procedures.

## 1. Plan Ahead for Lost or Wayward Papers

Knowing the likelihood of problems in advance, you can minimize them by keeping a copy of everything you send and (in the United States) sending everything by certified mail with a return receipt. If you're mailing from your own country, use the safest method available, preferably with some form of tracking. No matter where you are, be aware that many USCIS addresses are post office boxes, where services like Federal Express will not always deliver. (These delivery companies need an actual person at the destination to sign for the article.) For P.O. box addresses, you'll need to use regular mail. However, check the USCIS website—sometimes they offer alternate addresses for courier services.

By taking these steps, you'll have the evidence you need in case you must show immigration authorities that it was their fault that a file was delayed or mislaid.

## 2. Asking Questions by Mail

If your application drags on too long or some other problem arises, write courteous, clear letters asking for action, as shown in the example below. All correspondence should include the processing number on your last USCIS or consular correspondence and your A-number, if you've already been assigned one. (Your A-number is the letter A—for Alien— followed by eight digits.)

If you're dealing with a USCIS Service Center, your receipt notice will show your processing number. You'll recognize it because it starts with a three-letter abbreviation—either WAC, LIN, EAC, SRC, or TSC. These abbreviations refer to the Service Center handling your application: California uses "WAC," Nebraska uses "LIN," Vermont uses "EAC," and Texas uses "SRC" or "TSC." If you haven't been assigned any processing number, or haven't even gotten a receipt notice, include copies of previous correspondence and/or certified mail receipts when you write your inquiry letters.

Keep your letters clear and to the point. The people at the other end don't want to read long passages about how you've been checking your mail every day and can't sleep at night for worry. Answers to inquiry letters usually take at least six weeks.

## 3. When Should You Start Inquiring About Delays?

When it comes to delays, how long is too long? That is the million-dollar question. Processing times for USCIS and consular applications vary depending on the number of people applying. If you are waiting for an initial receipt, such as one for an I-129F or I-130 visa petition that your fiancé or spouse filed with a USCIS Service Center, six weeks is the longest you should wait. After that, write a letter like the one below.

## Sample Letter for No Receipt Notice

222 Snowy Road  
Buffalo, New York 14221  
(716) 555-1212

March 31, 200x

Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Vermont Service Center  
75 Lower Welden St.  
Saint Albans, Vermont 05479

RE: Petitioner: Charlie Citizen  
Beneficiary: Greta German  
Delayed Receipt Notice

Dear Sir/Madam:

I filed an I-130 visa petition for the above-named Beneficiary on January 14, 200x. According to my certified mail receipt, the petition arrived in your office on January 16 (a copy of that notice is enclosed). It has now been over six weeks and I have not gotten a receipt notice from you.

Please advise me of the status of my visa petition at the above address or phone number. I look forward to your response.

Very truly yours,  
*Charlie Citizen*  
Charlie Citizen

Encl. (Copy of Return Receipt)

## 4. Emergency Attention

If there is some reason that your application really should be given immediate attention—that is, put ahead of all the other waiting applications—be sure to highlight this in a letter. But limit your cries for help to true emergencies, such as:

- a family member is dying in your home country and you need permission to leave the country during your green card processing to visit them, or

- you have scheduled surgery on the same day as an important USCIS appointment.

If possible, include proof of any claimed emergency, such as a letter from a doctor.

## 5. USCIS Time Estimates for Application Approval

Sooner or later you'll get a receipt notice from the USCIS Service Center, in response to your first inquiry or in the normal course of processing. The notice will give you an estimate of how long USCIS expects to take to approve or deny your application. Look at the box in the sample receipt notice below—you'll see that it predicts 89 to 90 days for completion.

## 6. Delays Beyond USCIS Time Estimates

The Service Center won't want to hear from you with more inquiries about your application until the number of processing days predicted on your receipt notice has passed. But if that date passes with no results, it's time to write a letter like the one below.

### Sample Letter for Delayed USCIS Decision

344 Noview Drive  
Fremont, CA 90000  
(510) 555-1212

September 31, 200x

USCIS/California Service Center  
P.O. Box 10130  
Laguna Niguel, CA 92607-0130

RE: Petitioner: Joe Citizen  
Beneficiary: Tana Tanzanian  
Processing Number: WAC 01-55-54321

Dear Sir/Madam:

I filed a visa petition for the above-named Beneficiary on May 1, 200x. According to your receipt notice, which I received on June 1, 200x, I could expect a decision from you within 90 days. A copy of that notice is enclosed. It has now been approximately 120 days and I have received neither a decision nor any requests for further information.

Please advise me of the status of my visa petition at the above address or phone number. I look forward to your response.

Very truly yours,

*Joe Citizen*  
Joe Citizen

Encl. (Copy of USCIS receipt)

If you hear nothing from USCIS after four weeks, write another, similar letter. Write another every two weeks until you get an answer. It's best to start with very polite, short letters, and then get more insistent as time goes on. Be careful, however—although eloquent and justified outrage may eventually get USCIS's attention, never insult or threaten a government official. This will get you nowhere and, if your letter is interpreted as a threat, may lead to a criminal prosecution as well as a quick denial.



## Sample Receipt of Application Notice

U.S. Department of Justice  
Immigration and Naturalization Service

## Notice of Action



RECEIPT NUMBER WAC-95-132-55555		CASE TYPE I130 IMMIGRANT PETITION FOR RELATIVE, FIANCE (E), OR ORPHAN
RECEIPT DATE April 13, 1995	PRIORITY DATE	PETITIONER A99 999 999 AGUILAR, JOSE
NOTICE DATE April 13, 1995	PAGE 1 of 1	BENEFICIARY AGUILAR, CLARITA
AMY F. LEE, ATTORNEY 555 PARKER ST. BERKELEY CA 94710		Notice Type: Receipt Notice  Amount received: \$ 80.00  Section: Husband or wife of permanent resident, 203(a)(2)(A) INA

The above application or petition has been received. It usually takes 89 to 90 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect. Our customer service phone number is listed below:

We will send you a written notice as soon as we make a decision on this case. You can also use the phone number below to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).

Please see the additional information on the back. You will be notified separately about any other cases you filed.  
 IMMIGRATION & NATURALIZATION SERVICE  
 WESTERN SERVICE CENTER  
 P. O. BOX 30111  
 LAGUNA NIGUEL CA 92607-0111  
 Customer Service Telephone: (714) 643-4880



RECEIVED APR 17 1995



## 7. Scheduling the Interview

After all your paperwork is submitted, you're ready for an interview—but you can't predict how long it will take before your interview is scheduled. For interviews in the United States, waits of over a year are common; if you're overseas, it's not unusual to wait several months for an interview at the consulate.

There's no harm in trying to find out when you'll be scheduled, however. If you submit any paperwork in person, be sure to ask the clerk about the current waiting time. The information desk at your local USCIS or consulate may also be able to tell you about the usual wait, even if they can't access your application. Sample inquiry letters regarding delayed consular and USCIS interviews are shown below.

Note that the letter to the consulate was sent to an address in Texas, although the consulate is in Ciudad Juarez, Mexico. (The consulate picks up their mail in El Paso.) If you don't have the address of the consulate handling your case, you can locate your consulate via [www.travel.state.gov/links.html](http://www.travel.state.gov/links.html); or call the State Department's Visa Services Office in Washington, DC, at 202-663-1225.



**Your case number is on the letter from the National Visa Center that you received with your packet of forms.** It usually starts with the three-letter abbreviation for your consulate. In the case below, CDJ stands for Ciudad Juarez.



**Arizona**

State Neckwear: Bolo Tie

### Sample Letter for Delayed Consular Interview

333 Plaintree Drive  
Tucson, AZ 90000  
(520) 555-1212

July 8, 200x

Consulate General of the United States  
Visa Unit  
P.O. Box 10545  
El Paso, TX 79995-0545  
USA

RE: Case Number: CDJ 2000xxxxxxx  
Petitioner Name: SMITH, Sandra  
Beneficiary Name: CAMPOS CARCAMO,  
Jorge

Dear Sir/Madam:

I am the Beneficiary named above. I mailed Forms DS-2001 and DS-230 Part I to the NVC in January of this year, over six months ago. I believe the NVC has transferred the case to your office. Please see the attached copy of the return receipt that I received after sending these forms by certified mail. I have still not received my visa appointment.

Enclosed is an additional copy of the previously submitted forms, in case the first set was misplaced. Please advise me if you need anything further. If not, please schedule me for my visa appointment as soon as possible. Thank you.

Very truly yours,

*Jorge Campos Carcamo*

Jorge Campos Carcamo

Encl. (Return receipt from Post Office and copy of forms and documents)

The sample letter below was mailed to a USCIS office. The address is that of one of the many USCIS District Offices that handle Adjustments of Status (a list of USCIS District Offices is in Appendix D). Send your letter to the office to which you submitted your

application; but add the line “Adjustment of Status Unit” to get it to the right department.

### Sample Letter for Delayed USCIS Interview

888 Windy Road  
Boston, MA 02000  
(617) 555-1212  
January 5, 200x

USCIS Boston District Office  
Adjustment of Status Unit  
John F. Kennedy Federal Building  
Government Center  
Boston, MA 02203

RE: A#12345678

Petitioner: Larry Local

Beneficiary: Zelda Zelinski

Dear Sir/Madam:

I am the beneficiary named above. I turned in my application for Adjustment of Status in October of 200x, approximately 16 months ago. Please see the attached copy of my receipt notice. Although I was called in for fingerprinting five months ago, I have still not received an interview appointment.

Please let me know the status of my application and schedule me for an interview as soon as possible. Thank you.

Very truly yours,

*Zelda Zelinski*

Zelda Zelinski

Encl. (Copy of U.S. Post Office return receipt)

gives out phone numbers, except to its main information line, which is probably miles away from where your application is stored.

The USCIS Service Centers, where fiancé (1-129F) and immigrant (I-130) visa petitions are usually decided, are a unique case. The good news is that these Service Centers have their own telephone information lines. The bad news is that after you spend many hours trying to get through, the person (or machine) who picks up the phone usually has no access to your file. Usually, the most they will do is read from a computer screen, telling you that your case is pending. However, if the computer shows that the Service Center sent you a request for more documents or actually denied your case, the phone call will be worth the effort—but count on many hours of effort.

## 9. Incomplete or Lost Portions of Your Application

If USCIS or the consulate needs something to complete your application, such as further evidence of your bona fide marriage, or a missing financial document, they will usually mail you a request. If you receive a request for more documentation, try to gather whatever the immigration authorities have asked for and get it in the mail as soon as possible. Don't forget to include the notification form as a cover sheet—but make a copy for yourself first. A sample of the kind of notice a Service Center might send is shown below (this sample is from a work permit application).

What should you do if you're asked for something that you know you've already sent? This is a surprisingly common occurrence—in fact, an investigative report by *The Oregonian* newspaper found that, “With 25 million case files in storage, the INS [as it was then called] misplaces tens of thousands of files each year ... and leaves immigrants to resubmit applications and pay fees all over again.” (From “INS Bureacracy, Blundering Create ‘The Agency From Hell,’” by Brent Walth and Kim Christensen, *The Oregonian*, Monday, December 11, 2000.) If the requested item is something inexpensive or easy to come by, don't even try arguing with USCIS or the

## 8. Telephone Calls

You'll no doubt be anxious to just pick up the phone to ask about the progress of your application. Unfortunately, phone calls often produce frustration instead of answers. You might get through to a consulate after many tries. But USCIS almost never



## Sample USCIS Request for Further Evidence—Page 1

U.S. Department of Justice  
Immigration and Naturalization Service

## Notice of Action



RECEIPT NUMBER WAC-01-013-99999		CASE TYPE I 765
RECEIPT DATE		APPLICATION FOR EMPLOYMENT AUTHORIZATION
PRIORITY DATE		APPLICANT A99 999 999
NOTICE DATE October 20, 2000		IVAN PLATOV
PAGE 1 of 1		

IVAN PLATOV  
2367 BROADWAY  
NEW YORK, NEW YORK 20012

Notice Type: Rejection Notice

Your Application for Employment Authorization, Form I-765, is being rejected for incorrect fee.

To establish the correct fee, you must select one eligibility category and submit the fee according to the directions on the application.

Select one eligibility category from Part 2 on the instruction sheet and write it in item 16 on the form. Return the completed Form I-765 with the correct fee as indicated on Part 5 of the instructions for processing.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

IMMIGRATION & NATURALIZATION SERVICE  
CALIFORNIA SERVICE CENTER  
P. O. BOX 30111  
LAGUNA HIGUEL CA 92607-0111  
Customer Service Telephone: (949) 831 8427



## Sample USCIS Request for Further Evidence—Page 2



U.S. Department of Justice  
Immigration and Naturalization Service  
California Service Center  
P.O. Box 10765  
Laguna Niguel, CA 92607-0765

Ivan Plator  
2367 Broadway  
New York, New York 20012

Date: 8/13/01

Form: I-765

"A" #: 12345678

Dear Applicant:

Your application(s) is/are being returned to you for the following reason(s):

1. ☐ You have failed to correctly or properly complete the portion of your application which begins "I AM APPLYING FOR \_\_\_\_\_". Please check the proper box and return to the above address.
2. ☐ You have improperly completed or failed to complete Item #16 of your application. Please read the instruction marked "ELIGIBILITY" on the back of the application. Complete Block #16 and return.
3. ☐ Please sign your I-765 application.
4. ☒ The I-765 application fee is \$100.00
5. ☐ Please go to your local INS office nearest you for assistance
6. ☐ You failed to submit the required "Form I-765 signature card" with your application. Attached is the I-765 signature card. Sign this card in the blue box marked "signature". **Your signature must fit within the blue box.**
7. ☐ You have indicated one of the following eligibility codes in block 16 of your I-765: (a)(3), (a)(4), (a)(5), (a)(7), (a)(8). These eligibility codes are not processed in the California Service Center. Please forward your I-765 to the **Nebraska Service Center**, P.O. Box 82521, Lincoln, NE 68501-2521.
8. ☐ A fee is not required for the application or petition you submitted. Your fee, in the amount of \_\_\_\_\_ is being returned to you.
9. ☐ The Form I-765 you submitted has been revised. You must submit the Form I-765 with a revision dated of **4/11/91 or later** to this office.
10. ☐ Please complete Section 1 (NAME) or section 3 (ADDRESS).
11. ☐ You may **ONLY** apply for an employment authorization document under one eligibility classification on the application you are submitting.
12. ☐ OTHER \_\_\_\_\_

**\*\*IF YOU WISH TO FILE UNDER THE TEMPORARY PROTECTED STATUS AVAILABLE TO HONDURANS AND NICARAGUANS, PLEASE SUBMIT FORM I-765 UNDER (C)(19) ELIGIBILITY CODE FILED TOGETHER WITH FORM I-821, SUPPORTING EVIDENCE AND CORRECT FEES. CALL 1-888-557-5398 FOR MORE INFORMATION. FOR FORMS, CALL 1-800-870-3676.**

**IMPORTANT NOTE:** Please review the instructions carefully to be sure all required documentation is attached to your application (i.e., copy of INS decision notice, copy of your current I-94 or copy of your current EAD card).

**IF YOU NEED ASSISTANCE, PLEASE VISIT THE INS OFFICE NEAREST YOUR PLACE OF RESIDENCE. PLACE THIS NOTICE ON TOP OF THE APPLICATION AFTER COMPLETING THE REQUESTED ACTION(S) AND RETURN IT TO THE SERVICE CENTER AT THE ABOVE ADDRESS.**

ID# 610583  
INS Conc. \_\_\_\_\_  
rev 9/27/00 fm I 765

consulate—even if you have photocopies proving that you already sent the item. Just assume it's been lost and send another one.

Lost checks or money orders are a different matter. Don't send USCIS another check or money order until you've found out what happened to the first draft. If you sent a check and haven't received information about it with your monthly bank statement, ask your bank to tell you whether your check has been cashed. If so, get the check and send USCIS a copy of both sides, so that USCIS officials can see their own stamp and processing number. If you sent a money order and kept the receipt with the tracer number, call the company that issued the money order to find out whether it's been cashed. Ask for a copy of the cashed money order or other evidence that you can use to prove to USCIS that they were the ones who cashed it. If you can't get a copy of the cashed money order, send USCIS a copy of your receipt and an explanation. Hopefully, they will stop bugging you for the money.

## B. What to Do If an Application Is Denied

First, a word of reassurance: Neither USCIS nor the consulates like to deny visas to eligible applicants. Unless you are clearly ineligible, they will usually give you many chances to supplement your application and make it worthy of approval. Maybe this is the good side of a slow-moving bureaucracy—every decision takes time, even a negative one. (But don't use this as an excuse to be sloppy in putting your application together the first time.)



**If your visa or green card has been denied, it's time to think about getting a lawyer.** This advice is particularly important if the denial was due to something more serious than a bureaucratic mistake or a lack of documentation on your part. You'll definitely need a lawyer for the complicated procedures mentioned below, including removal proceedings and motions to reopen or reconsider. See Chapter 17 on finding a lawyer.

## 1. Denial of Initial Fiancé or Immigrant Visa Petition

If the USCIS Service Center denies your initial I-129F fiancé visa petition or I-130 visa petition, the best thing for your fiancé or spouse to do is to start over and file a new one. This is true even if a lawyer is helping you. There is an appeal process, but hardly anyone ever uses it. You'll probably spend less time starting over, and the fee is about the same. Besides, no government agency likes to admit it was wrong, so there is a tactical advantage to getting a fresh start.

## 2. Denial of Visa or Green Card

If USCIS or the consulate denies an application farther along in the process, your response will depend on where you are—in the U.S. or overseas.

### a. Denial of Green Card After Adjustment of Status Application in the U.S.

If you are applying for Adjustment of Status in the United States, there is technically no appeal after a denial. If, as is likely, you have no other legal right to be in the United States when the application is denied (such as a pending political asylum application), you will be placed in removal proceedings in Immigration Court. There, you will have the opportunity to renew your marriage-based green card application before an immigration judge. In rare circumstances, you might need to file a motion to have your case reopened or reconsidered; or you may need to file a separate suit in federal court.



**Never ignore a notice to appear in Immigration Court.** Attorneys regularly receive questions from immigrants who were scheduled for a hearing in Immigration Court and either forgot, couldn't make it, or just hoped the problem would go away. Failing to appear for a court date is the worst thing you can do to your hopes of immigrating. It will earn you an automatic order of deportation, which means that USCIS can pick you up and put you on a plane home anytime,



with no more hearings. You'll also be hit with a ten-year prohibition on returning to the United States and further punishments if you return illegally. The fact that your spouse is a U.S. citizen or resident won't be worth much after an order of deportation has been entered.

### b. Denial of Fiancé Visa at U.S. Consulate

If you are applying for a fiancé visa through a consulate overseas, you have no appeal after a denial. The consulate is at least required to tell you the reason for the denial, and often the fastest thing is to fix the problem and reapply. If the issue was whether you truly intended to get married, it might be wise to marry in your home country and work on gathering evidence that your marriage is the real thing before you apply for an immigrant visa.

### c. Denial of Marriage-Based Visa at U.S. Consulate

If you are applying for an immigrant (marriage-based) visa, the consulate will give you one year after the denial of your visa application to provide information aimed at reversing the denial. If you feel you are being treated unfairly, this is a good time to get the U.S. spouse's local Congressperson involved (see Section C below). At the end of the year, your application will close and you must start all over again. There is no appeal from the denial or the closure.



#### **Don't attempt multiple, inconsistent applications.**

The U.S. government keeps a record of all your applications. If you come back five years later with a new U.S. citizen fiancé or spouse and a new visa or green card application, USCIS or the consulate will be happy to remind you of any past fraud or other reasons for inadmissibility. (Changing your name won't work—by the end of the application process, USCIS will have your fingerprints.)

## C. When All Else Fails, Call Your U.S. Congressperson

If your case turns into a true bureaucratic nightmare or a genuine miscarriage of justice, your U.S. citizen or permanent resident spouse can ask his or her local Congressperson for help. Some of them have a staff person dedicated to helping constituents who have immigration problems. A simple inquiry by a Congressperson can end months of USCIS or consular stonewalling or inaction. In rare cases, the Congressperson's office might be willing to put some actual pressure on USCIS or the consular office.

**EXAMPLE:** Rodrigo, a U.S. citizen, was trying to get permission for his wife Sandra to immigrate from Mexico. She attended her visa interview and was told to come back with more proof that she would be financially supported and not become a public charge. Although Rodrigo's income was already over the *Poverty Guidelines*, he found a joint sponsor, who submitted an additional Affidavit of Support for Sandra. The consulate still wasn't willing to grant the visa. Rodrigo consulted with an attorney, who wrote letters to the consulate—but got no reply. Finally his attorney wrote a letter to Rodrigo's Congressperson asking for help. They submitted copies of all the relevant documents, so that the Congressperson would fully understand the problem. The visa was granted—with no explanation—a week after the Congressperson's inquiry.

Your Congressperson probably won't be surprised to hear from you. Illinois Congresswoman Janice Schakowsky reported that eight out of ten calls from her constituents are complaints about the INS (as USCIS was then called). (See "Unchecked Power of the INS Shatters American Dream," by Kim Christensen, Richard Read, Julie Sullivan, and Brent Walth, *The Oregonian*, Sunday, December 20, 2000.)





## After You Get Your Green Card

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## Sample Notice of Approval for Residency

U.S. DEPARTMENT OF JUSTICE  
U.S. IMMIGRATION AND NATURALIZATION SERVICE  
630 SANSOME STREET  
SAN FRANCISCO, CALIFORNIA 94111

ILONA BRAY  
950 PARKER STREET  
BERKELEY, CA 94710

Date: 11/19/99  
A: 66 666 666  
Approval Date:  
Adj. Class: JD6

RE: TAN CHOW

NOV 21 2000


DEAR APPLICANT(S):

Please be advised that you have been granted permanent resident alien status as of the above date. This letter should not be regarded as proof of that status. You are being processed for an alien registration card which will be mailed to you at the above address within the next few months. If you require proof of your status in order to travel, bring evidence of travel such as an airline ticket; or if your employment authorization document will expire within 90 days, you may come to this office, room 200B for a temporary stamp. Bring this letter and your valid unexpired passport with you. Children under the age of 13 1/2 need NOT appear. DO NOT STAND IN LINE FOR ROOM 200. PLACE THIS LETTER IN THE TRAY AT ROOM 200B. You may appear any MONDAY THROUGH THURSDAY (except holidays), BETWEEN THE HOURS OF 12:30 and 2:30 PM.

Representative notified: ILONA BRAY

SINCERELY,



CHARLES H. DEMORE  
DISTRICT DIRECTOR 

PC10



port to your local USCIS office, where they'll stamp your passport to show that you're a resident.



**Don't let your passport stamp expire.** The temporary stamp in your passport may expire before you get your green card. This doesn't mean you've lost your legal right to live in the United States, but it can be darned inconvenient if you're working or you're traveling abroad. If you see that the stamp is about to expire, go to your local USCIS office for another stamp. They probably won't be able to tell you when your card will arrive, since the card is being manufactured in a USCIS factory elsewhere, but they can give you a form with which to make an inquiry.

### Applying for a Social Security Number

With your U.S. residency, you are eligible for a Social Security number. This is a number given to all people legally living and working in the United States, to identify them and allow them to pay into a system of retirement insurance. You may have already applied for a Social Security number if you received a work permit before getting your green card. If not, now is the time to apply. You'll need this number before you start work—your new employer will ask for it in order to file taxes on your behalf.

To apply for your number, visit your local Social Security office. You can find it in your phone book within the federal government pages (usually blue) or on the Social Security Administration's website at [www.ssa.gov](http://www.ssa.gov).

## B. Traveling Abroad

There's no question about it—travel outside the United States is one of your rights as a conditional or permanent resident. But don't stay away too long. As the term "resident" suggests, you are expected to reside—that is, make your home—in the United

States. If you make your home outside the United States, you could lose your green card.

Border officers have the power to decide whether returning green card holders are living outside the country. The officer will ask when you left the United States, what you were doing while you were away, and where you make your home. Being away for longer than six months will raise suspicion; being away for more than a year guarantees that you will have to attend an Immigration Court hearing before you can reclaim your U.S. residency and green card.

Before deciding whether you have abandoned your residency, the border officer will look at other factors besides the length of time you were away. The officer may note whether you:

- pay U.S. taxes
- own a home or apartment or have a long-term lease in the United States
- were employed in the foreign country
- took your family to the foreign country
- are returning to the U.S. with a one-way ticket or a round-trip ticket back to the foreign country, and
- maintained other ties with the United States.

If you're coming back after a trip of several months, you can make your entry to the United States easier by bringing copies of documents that show that your home base is still in the United States. These documents could include your U.S. tax returns, home lease, evidence of employment, or other relevant documents.



**Get permission before leaving.** If you know in advance that you're going to have to spend more than a year outside the United States, you can apply for a reentry permit. Use Form I-131, Application for Travel Document, included in this book and available at your local USCIS district office or on the USCIS website at [www.uscis.gov](http://www.uscis.gov). You will want to check Box a in Part 2 for reentry permits. You will have to explain to USCIS the purpose of your trip and how much time you've already spent outside the United States. Make sure to submit this form before you leave the United States.

## C. Your Immigrating Family Members' Rights

If children immigrated with you, their legal status will pretty much match yours. If you received conditional, rather than permanent residency, so did they—and they will also have to apply for permanent residency 90 days before the second anniversary of the date they won conditional residency (see Section G, below, regarding application procedures).

One difference between your children's status and yours may be the number of years that they must wait before they apply for U.S. citizenship. If your spouse was a permanent resident when you were approved, then you as well as your children must wait five years before applying for U.S. citizenship. However, if your spouse was a U.S. citizen when you were approved, your children under 18 become citizens automatically (as long as they are living in the U.S. citizen parent's custody). This right comes from the Child Citizenship Act of 2000. To prove their citizenship, your children will automatically receive a certificate of citizenship from USCIS by mail, within about six weeks of entering the United States. Children who are over 18 when they

become permanent residents will have to wait five years before applying for citizenship (despite the fact that you, their parent, need wait only three years).



For more information on how to obtain citizenship through family members, talk to a lawyer or local nonprofit organization, or see Nolo's online legal encyclopedia at [www.nolo.com](http://www.nolo.com). Click on the tab for Plain-English Law Centers, then Legal Encyclopedia, then the section on Immigration and Green Cards.

## D. Sponsoring Other Family Members

Once you are a permanent (not conditional) resident, you have limited rights to petition or sponsor other members of your family to immigrate. After you become a U.S. citizen, the law adds a few more family members to the list of those for whom you can petition.

The chart below, "Bringing the Family Over," shows the relatives whom you can help immigrate. (This chart does not discuss which relatives can immigrate immediately and which will have to wait until a visa is available.)



### Virginia

State Dance: Square Dance

Square dances include the Virginia reel

### Bringing the Family Over

#### If you are a permanent resident, you can bring:

- Unmarried children
- Spouse.

#### If you are a U.S. citizen, you can bring:

- Parents
- Spouse
- Children (unmarried or married)
- Brothers and sisters.

The pathways represented in the chart above work only within your own family line—even if your spouse is a U.S. citizen he cannot bring in *your*

parents, brothers, or sisters. Put another way, no one can petition for their in-laws. Your children are another matter, however—as discussed in Chapter 2, Section B, your U.S. citizen spouse can petition not only for children who are his or her own biological offspring, but also for his or her legal stepchildren (if your marriage took place before they turned 18).

## 1. Your Unmarried Children

Your unmarried children under 21 probably immigrated with you. If they didn't, you have a few options. First, if you came directly from overseas, it may not be too late to use the application you filled out, which resulted in your permanent residency. Adding children to an existing application is called "following to join." Ask your consulate about the procedures for doing this.

Your second option is to look again at whether your spouse can file a visa petition for your children. If they are your spouse's biological children, this will be no problem. If your spouse is a U.S. citizen, the children under 21 are considered immediate relatives; if your spouse is a permanent resident, the children go in category 2A of the Preference System. Either way, your spouse can follow the same procedures in petitioning for them to immigrate as he or she did for you. If the children are not your spouse's biological children, he or she can petition for them only if they are his or her legal stepchildren. To be legal stepchildren, your marriage must have taken place before their 18th birthday.

Your third option is to file a visa petition for your children yourself. However, this won't get them a visa for at least a few years. As children of a permanent resident, they will be in the Second Preference Category of the Visa Preference System, meaning that there are quotas on how many such people are given visas each year. They will have to be on a waiting list for an average of two to five years before becoming eligible to immigrate. (See Chapter 8, Section A2, for more details on the Visa Preference System.)

If you have unmarried children over 21, look again at whether your spouse can petition for them. If he or she is a U.S. citizen and the children's biological

parent or legal stepparent, they will be placed in the First Preference category of the Visa Preference System. That means they will have to be on a waiting list—but the First Preference category usually moves quickly. You too could file a visa petition for your unmarried children over 21, but that would put them in category 2B of the Visa Preference System, and it will be a long wait for them (currently about nine years).

## 2. Your Married Children

If your children are married and neither you nor your spouse are U.S. citizens, you cannot apply for them to immigrate. When one of you becomes a citizen, that person can file a petition to place the children in the Third Preference category, which moves rather slowly—the current wait time is about six years. If your spouse is going to file the petition, the children must be his or her biological children or legal stepchildren.

## 3. Parents, Brothers, and Sisters

You are not permitted to file a petition for your parents until you are a U.S. citizen. When you get your citizenship, they will be considered immediate relatives and won't face any waiting periods. When you are a U.S. citizen, you will also be able to file petitions for your brothers and sisters, but they will have to wait in the Visa Preference System (as members of the Fourth, and last, Preference). Their wait will be longer than anyone's—averaging 12 years for most applicants and 22 years for applicants from the Philippines. To make matters worse, Congress keeps threatening to do away with the Fourth Preference category.

## E. Losing Your Permanent Resident Status

You can lose your U.S. permanent resident status by violating the law (committing a crime) or violating

the terms of your residency, such as by staying out of the United States and living abroad for too long, as explained above in Section B. If you are in the United States, such a violation could make you deportable, in which case USCIS might start Immigration Court proceedings against you and eventually send you away. If you attempt to return to the United States, you could be found inadmissible and kept out.



For more on inadmissibility, see the discussion in Chapter 2 and I.N.A. § 101(a)(13)(C), 8 U.S.C. § 1101(a)(13)(c). The grounds of inadmissibility overlap with the grounds of deportability, but they are set out separately in the immigration laws, and there are significant differences. See I.N.A. § 237(a), or 8 U.S.C. § 1227(a) for more on deportability.

A full discussion of inadmissibility and deportability is beyond the scope of this book. In brief, you become deportable if you:

- are involved in document fraud or alien smuggling
- go on welfare (become a public charge) within the first five years of entry, unless you need public support because of something beyond your control, such as a disabling accident (see I.N.A. § 237(a)(5), 8 U.S.C. § 1227(a)(5))
- fail to comply with a condition of your green card (such as failing to follow a course of treatment to cure an illness you had when you were approved for residency)
- commit crimes, or
- violate the immigration laws (for example, participate in a sham marriage).

You probably aren't planning on a crime spree as soon as you get your green card. But the message to take from the criminal grounds of deportability is that you have to be extra careful. Your U.S. citizen friends might not worry too much about engaging in certain illegal activities, such as shooting a gun at the sky on the Fourth of July or sharing a marijuana cigarette among friends. But if you are caught participating in these same activities, you could lose your green card and be deported.

### Men 18-26 Must Register for the Military Draft

Lawful U.S. resident males (green card holders) between the ages of 18 and 26 are required to register for military service, otherwise known as the Selective Service. USCIS won't deport you if you don't register, but it will hold up your eventual citizenship application. As of the year 2000, immigrants who apply to adjust status in the United States are registered automatically. If you don't receive confirmation of your registration, or if you applied through a consulate overseas, you can pick up the Selective Service form at any local Post Office.

## F. How to Renew or Replace Your Green Card

This section is about the green card itself—the little laminated card that shows you're a resident. If something happens to the card—if it expires or gets lost—you don't ordinarily lose your status. (The only exception is that when the cards of conditional, not permanent residents expire, their status expires along with it, as discussed in Section G, below). However, the law requires you to have a valid green card in your possession, and it's not a bad thing to have on hand in case you travel, get a new job, or get picked up by an overeager USCIS officer who thinks you "look" illegal.

### 1. Renewing Expiring Green Cards

If you are a permanent resident (not a conditional resident), your status does not expire—but your green card *does* expire, every ten years. When the expiration date on your green card is six months away, you will need to apply to renew it. Use Form I-90, available in this book or at your local USCIS office, by mail from 800-870-3676, or on the USCIS website at [www.uscis.gov](http://www.uscis.gov). Instructions are not

included in this book, but Form I-90 comes with a fairly complete set of instructions, and you can read more on the USCIS website at [www.uscis.gov/graphics/howdoi/renew.htm](http://www.uscis.gov/graphics/howdoi/renew.htm).

Alternately, if you are ready and eligible to apply for U.S. citizenship, you can submit the citizenship application instead of renewing the green card. It will probably take you over a year to get your citizenship, but USCIS doesn't mind if you carry around an expired green card in this circumstance. If you need to change jobs or travel, however, you will probably want to renew the green card, to prove to the rest of the world that you are still a permanent resident.



Form I-90 is available on the CD-ROM at the end of this book and as a tear-out in Appendix G.

## 2. Replacing Lost or Stolen Green Cards

If your green card is lost, stolen, accidentally dropped into a blender, or otherwise destroyed, you will need to apply for a new one. Like renewal, this is done using Form I-90 (see instructions in Section 1, above on where to obtain the form.)



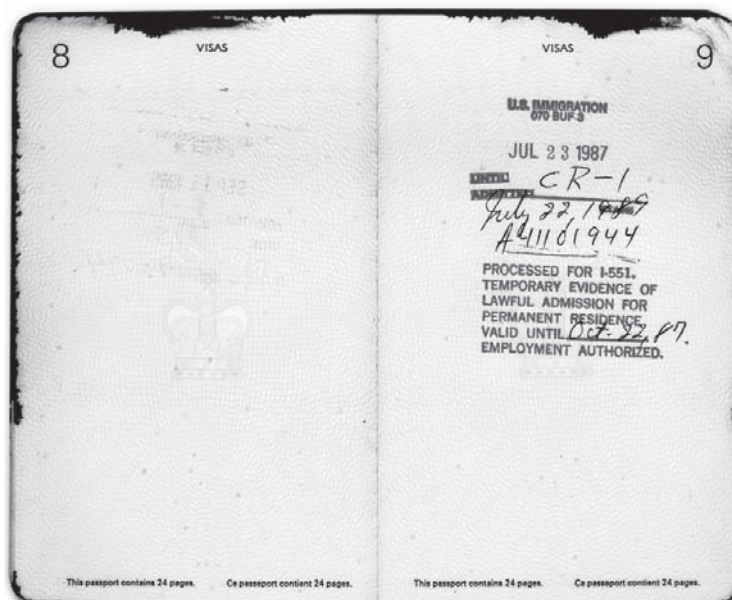
### Report all stolen green cards to the police.

Green cards are a hot item, and there is always a possibility that yours will be stolen and sold. If this happens to you, be sure to file a police report. You may not get your card back, but when you apply for a replacement card, the report will help convince USCIS that you didn't sell your own card.

## G. Converting From Conditional to Permanent Residence

If you were married for fewer than two years at the time of your approval for residency, or if you entered the United States as a K-1 fiancé, you will be given conditional residence. This means that your status will expire in two years. USCIS will take a second look at whether your marriage is indeed real (bona fide) before it allows you to stay permanently.

During your two years of conditional residency, you'll have all the day-to-day rights of a permanent resident. You'll be able to work, travel in and out of the United States, and even count your time toward the three or five years you'll need to accumulate before applying for U.S. citizenship. But if, during this period, USCIS discovers that your marriage has



Conditional Residence Stamp



ended or was not real in the first place, it can place you in removal proceedings and take away your green card and your immigration status.



**You must ask for your residence to be made permanent, or you'll lose it.** Read the rest of this section carefully. If you do not follow the procedures, you risk losing your conditional and permanent resident status and could face deportation.

## 1. When Will Your Conditional Residence Expire?

If you've just been approved for residency and you are not sure whether you're a conditional resident or when your residency will expire, take another look at the stamp in your passport. It should look much like the one above.

The notation CR-1 in this passport indicates that its holder received only conditional residency. The date on the top is when he entered: July 23, 1987. The date below the CR-1, July 22, 1989, shows when his two years of conditional residency will end. (When this person eventually got permanent residency, a separate stamp was placed on another page of his passport.)

Don't be confused by the other date you see on the sample, October 22, 1987. This is the date when the *stamp* in the passport expired, meaning that its holder should have received his separate green card by then. Every immigrant's passport stamp will have its own expiration date, even the immigrants who receive permanent, not conditional residency. If the passport holder from our sample hadn't received his green card by the October 1987 date, he could have gone to a USCIS office for a new passport stamp. Your initial green card will also show a two-year expiration date if you receive conditional residency.

## 2. The Application Procedures

To convert your conditional status to permanent status, you will need to submit a Petition to Remove the Conditions on Residence (Form I-751), complete with documents and fees, to a USCIS Service Center up to 90 days before the date your conditional resi-

dence status expires. Below, you'll find a checklist for this petition. If you send this petition too soon, that is, earlier than 90 days before your conditional residence expires, you'll get it right back. But if the petition is not filed by the expiration date, your card and your conditional residence status will both expire and you could be deported. So you see, you have a three-month window in which to complete and file your application.

Keep track of the deadline. USCIS will not always tell you when the petition is due. Put the due date on every calendar you own; tape it to your refrigerator, bedroom mirror, or forehead—do whatever you need to do to remember the date.



**If you miss the deadline by a short time, don't just give up.** If you're late by only a few weeks, mail the application with a cover letter, explaining the delay. If it's been longer, see a lawyer right away.

The information you need to have on hand is fairly straightforward, as you can see by looking at the checklist, below. One item merits mention, however—evidence of your marital relationship. This key portion of the application should be nothing new—remember the types of documents you had to provide for your Adjustment of Status or consular interview? These might include copies of rent receipts, joint bank or credit card statements, and children's birth certificates. Include only documents covering the last two years (don't resubmit items that USCIS has already seen).

## 3. Marriages That Have Ended and Spousal Abuse

A lot of things can happen to a marriage in two years. People can get divorced after a good faith marriage or the petitioning spouse might die. In some cases, the immigrant becomes the victim of domestic violence at the hands of a spouse who will no longer help with the immigration paperwork. Any of these circumstances will make it impossible to submit the Petition to Remove Conditions on Residence in its standard and simplest form, as a joint petition signed by both spouses.

You're not necessarily out of luck if one of the above-mentioned difficulties has occurred in your life. In fact, Form I-751 allows you to check boxes showing that you are divorced, widowed, the victim of abuse, or cannot file the petition jointly with your spouse for some other reason, but would suffer extreme hardship if you were denied permanent residency. (Note: The divorce must be final before USCIS will grant the waiver.) If you check any of these boxes, you will still submit the form, but you won't have your spouse's signature. You'll need substantial documentation of your eligibility for approval under the category you marked. A complete explanation of this process is outside the scope of this book. Consult a lawyer, a local nonprofit that serves immigrants, or a battered women's shelter for help.

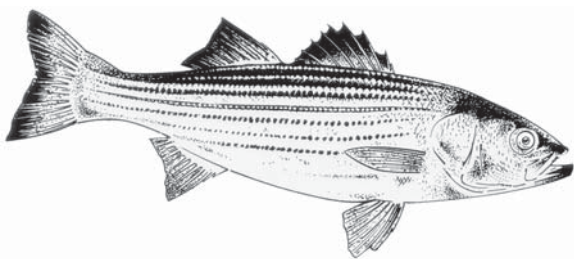
#### 4. Line-by-Line Instructions for Form I-751

Use this form to convert your conditional residency to permanent residency. The form is normally printed out double-sided.



Form I-751 is available on the CD-ROM at the back of this book and as a tear-out in Appendix G. Below is a picture of the first page of this form.

**Part 1, "Information about you":** This time "you" means the immigrating spouse. The rest of this Part should be self-explanatory.



**South Carolina and Maryland**  
State Fish: Striped Bass

**Part 2:** If you are still married and your spouse is cooperating with the process of applying for your permanent residency, put an "X" in Box a.

**Part 3:** Mostly self-explanatory. You will probably know if you are in **"removal or deportation proceedings."** You'll be in this situation if you've done something—or the government thinks you've done something—that gets you into Immigration Court. Common examples include being convicted of a crime or giving USCIS reason to believe that your marriage is fraudulent. If you are in court proceedings, you should already have a lawyer. If you don't, see Chapter 17 on how to find a good one.

If you check "yes" to the question about whether a fee was **"paid to anyone other than an attorney in connection with this petition,"** you haven't done anything wrong, but that person needs to enter his or her name and other information.

**Part 4:** This Part refers to the petitioning spouse, not the immigrant. Self-explanatory.

**Part 5:** Self-explanatory.

**Part 6:** It is very important that both of you remember to sign. Your two signatures are an indication of the ongoing validity of your marriage.

#### Checklist for Filing Joint Petition to Remove Conditions on Residence

Here's what you'll need to assemble for your joint petition to remove the conditions on your residency and become a permanent resident.

- ☐ Form I-751
- ☐ Required supporting documents, including:
  - ☐ A copy of your current green card (or I-551 in the language of USCIS); copy both the front and the back sides
  - ☐ Evidence of your marital relationship, and
  - ☐ Fee (currently \$200, but fees change often so double-check this at [www.uscis.gov](http://www.uscis.gov), or by calling 1-800-375-5283); you can mail a check or money order.

## Form I-751, Petition to Remove the Conditions on Residence

U.S. Department of Justice Immigration and Naturalization Service			OMB No. 1115-0145	
<b>Petition to Remove the Conditions on Residence</b>				
<b>START HERE - Please Type or Print</b>			<b>FOR INS USE ONLY</b>	
<b>Part 1. Information about you.</b>			<div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">Returned</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">Resubmitted</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">Reloc Sent</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;">Reloc Rec'd</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 2px;"> <input type="checkbox"/> Applicant Interviewed         </div> </div> <div style="width: 55%; border: 1px solid black; padding: 2px;">           Receipt         </div> </div>	
Family Name	Given Name	Middle Initial		
Address - C/O:				
Street Number and Name		Apt. #		
City	State or Province			
Country		ZIP/Postal Code		
Date of Birth (month/day/year)		Country of Birth		
Social Security # (if any)		A#		
Conditional residence expires on (month/day/year)				
Mailing address if different from address listed above:				
Street Number and Name		Apt. #		

### 5. Where to File the Joint Petition

When you and your spouse are finished preparing the joint petition, make a complete copy for your files. Then send the packet of forms and documents to a USCIS Service Center—the address is in Appendix C, and you can double-check it on the USCIS website at [www.uscis.gov/graphics/fieldoffices/statemap.htm](http://www.uscis.gov/graphics/fieldoffices/statemap.htm) or by calling the USCIS information number at 800-375-5283.

As you may have learned by now, Service Centers are different than the local USCIS offices that you can actually visit. All contact with the Service Center will have to be by mail. Certified mail with return receipt requested is highly recommended—these Service Centers receive a huge volume of mail. When you request a return receipt, you will prepare a little postcard that is attached to your envelope. It will be signed by the person at USCIS who physically receives your envelope. The postcard will be mailed to you, which will be your proof that USCIS received your petition. You can use this postcard to convince USCIS to look for the petition if it gets misplaced.

### 6. Your Receipt Notice

Once your application is received and the USCIS Service Center has reviewed it to see that you've included all the appropriate documents and fee, you'll get a receipt notice. It may be several weeks before you get this receipt notice. This notice is an important document. It extends your residency for a period of months (presently 12). It will be your only proof of your legal status at this time—it's a bit awkward to show to employers, border patrol officers, and others, but it really is an official document. You must, however, also carry your expired green card at the same time (since the card, unlike the receipt, has your photo on it).



**Border patrol officers have been sticky about accepting expired receipt notices as entry documents.** Before you travel, it's best to visit your local USCIS office, and ask for an I-551 stamp in your passport.

Although the one-year period on your receipt notice sounds like a long time, you may actually wait longer than this. Don't worry that this will affect your legal status in the United States—you will remain a conditional resident until USCIS makes a decision on your application. If, however, you need evidence of your legal status, visit your local USCIS office. Bring an unexpired passport, your old green card, and your receipt notice. The USCIS officer will take your green card, and in return give you what's called an I-551 stamp in your passport. This stamp will serve as evidence of your status, and will not expire for another year.

## 7. Approval by Mail

With any luck at all, the Service Center will approve your permanent residence by mail. If you are doubly lucky, this will happen before the extension period on your receipt notice has passed.

If you don't receive an approval by that time, take your receipt notice and your passport and visit your local USCIS office. If no decision has been made, USCIS can stamp your passport, extending your conditional residence. If the USCIS office can't give you any information on what's happening with your application, send inquiry letters to the Service Center. In your letters, be sure to include your A-number and the processing number shown on your receipt notice.

## 8. Approval After Interview

You and your spouse may be called in for an interview regarding the joint petition. If so, it probably means USCIS has some doubts about your marriage being real (although they also seem to regularly choose a few couples at random). Try to figure out why you're being called for an interview. Are you and your spouse living in different places? Did issues arise at your earlier USCIS or consular interview (when you got your conditional residence)? If so, think about how you can overcome these issues.

For example, if you and your spouse are living separately because one of you is in school, bring school transcripts and copies of documents showing that you often phone or visit one another. Or, if you are temporarily separated, get a letter from your marriage counselor or religious advisor confirming that she or he sees you regularly and is helping you face problems in your relationship and work them through.

Don't be surprised if the Service Center informs you that you'll be interviewed but the local USCIS office takes many months before scheduling an appointment. This delay doesn't have anything to do with the merits of your application. It just means that the local offices have numerous other applicants to interview before you.



**Being called in for an interview at this stage is somewhat unusual.** You might want to ask a

lawyer to help you prepare and to attend the interview with you. See Chapter 17 for tips on finding a good lawyer. Also see Chapter 13 for practice questions.

## 9. After You Are Approved or Denied

If you are required to attend a USCIS interview, they should approve you at the interview and stamp your passport. If you are not required to attend an interview and are approved by mail, you should take your approval notice to your local USCIS office and get a stamp in your passport—which is a much better form of evidence that you are a permanent resident than the letter alone. By now, you know the routine—you'll wait several months for the actual green card to arrive by mail.

If your application is denied, you will be placed in removal proceedings, unless you are lucky enough to have an alternate legal status.



**If you are placed in removal proceedings and you haven't already found a lawyer, do it now.**

For tips on finding a good one, see Chapter 17 below. Whatever you do, don't skip a court date. Failure to appear results in an automatic order of deportation and could permanently ruin your chances of immigrating. ■

## Legal Help Beyond This Book

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**Y**ou are not required to have a lawyer when applying for an immigrant visa or green card in the United States or overseas. If you have a straightforward case, you should be able to proceed all the way to a visa or green card without a lawyer. In fact, if you are overseas, lawyers cannot attend consular interviews with you, though they are allowed to prepare the paperwork and have follow-up communications with the consulates.

Unfortunately, there are times when you'll need a lawyer's help. Because immigration law is complicated, even a seemingly simple case can suddenly become nightmarish. If so, you'll need good legal help, fast. In this chapter, we'll explain:

- when applicants typically need to consult an attorney (Section A)
- how to find suitable counsel (Sections B, C, and D)
- hiring, paying, and (if necessary) firing your lawyer (Sections E, F, and G), and
- how to do some legal research on your own (Section H).



**If you are or have ever been in deportation (removal) proceedings, you must see a lawyer.**

If the proceedings aren't yet over or are on appeal, your entire immigration situation is in the power of the courts—and you are not allowed to use the procedures described in this book. Even if the proceedings are over, you should ask a lawyer whether the outcome affects your current application.

## A. When Do You Need a Lawyer?

The most common legal problem encountered by would-be immigrants is the claim by USCIS or the consulate that they are inadmissible for one or more of the reasons listed in Chapter 2, such as having committed a crime or previously lied to the U.S. government. If you know that any of these grounds apply to you, it makes sense to get legal help before you begin the application process.

Another circumstance that often drives people to lawyers is the failure of USCIS or the consulate to

act on or approve the application, for reasons that have more to do with bureaucracy than law. For example, an applicant who moves from Los Angeles to San Francisco after filing the green card application might find that the application has disappeared into a bureaucratic black hole for several months. Delays at the USCIS Service Centers are also ridiculously common.

Lawyers don't have much power in such circumstances. True, the lawyer may have access to inside fax or email inquiry lines, where they (and only they) can ask about delayed or problematic cases—but even lawyers have trouble getting answers to such inquiries. An experienced lawyer may have contacts inside USCIS or the consulate who can give information or locate a lost file. But these lawyers can't use this privilege on an everyday basis, and long delays are truly an everyday occurrence. The bottom line is that a lawyer has no magic words that will force the U.S. government into taking action. So you'll have to decide whether it's worth it to pay a lawyer for this limited help. After all, the lawyer will basically be doing what you can probably do yourself—repeatedly calling or writing to USCIS or the consulate until they come up with an answer.



**Don't rely on advice by USCIS information officers.**

Would you want the receptionist in your doctor's office to tell you whether to get brain surgery? Asking USCIS information officers for advice about your case (beyond basic procedural advice such as where to file an application and what the fees are) is equally unsafe. The people who staff USCIS phone and information services are not experts. USCIS takes no responsibility if their advice is wrong—and won't treat your application with any more sympathy. Even following the advice of officials higher up in the agency may not be safe—always get a second opinion.

## B. Where to Get the Names of Good Immigration Lawyers

Finding a good lawyer can involve a fair amount of work. Immigration law is a specialized area—in fact

it has many subspecialties within it—so you obviously don't want to consult the lawyer who wrote your best friend's will. And whatever you do, don't just open the telephone book and pick the immigration lawyer with the biggest advertisement. Even bar association referral panels (lawyer listing services run by groups of lawyers) tend not to be very helpful. Such services tend to assume that any one of their lawyer-members is qualified to handle your case, and they may simply refer you to the next lawyer on their list with no prescreening.

It is far better to ask a trusted person for a referral. You probably know someone in the United States who is sophisticated in practical affairs and has been through an immigration process. Perhaps this person can recommend his or her lawyer, or can ask that lawyer to recommend another.

Local nonprofit organizations serving immigrants can also be excellent sources for referrals. A nonprofit organization is a charity that seeks funding from foundations and individuals to help people in need. Since they exist to serve others rather than to make a profit, they charge less and are usually staffed by people whose hearts and minds are in the right places. In the immigrant services field, examples include the Albuquerque Border City Project (New Mexico); Northwest Immigrant Rights Project (Seattle); El Rescate Legal Services (Los Angeles); the International Institutes (nationwide); and Catholic Charities (nationwide). For a list of USCIS-approved nonprofits, ask your local USCIS office or court or check the USCIS website at [www.uscis.gov/graphics/lawsregs/advice.htm](http://www.uscis.gov/graphics/lawsregs/advice.htm). You don't need to use a nonprofit from the USCIS list, but it may be safer to do so—supposed nonprofit organizations can be unscrupulous too, or may actually be for-profit businesses. Most nonprofits keep lists of lawyers whom they know do honest immigration work for a fair price.

Yet another good resource is the American Immigration Lawyers Association (AILA), at 800-954-0254 or on the Internet at [www.aila.org](http://www.aila.org). AILA offers a lawyer referral service. Their membership is limited to lawyers who have passed a screening process, which helps keep out the less scrupulous practitioners. But not all good immigration lawyers have joined AILA (membership is a bit pricey).

Try to get a list of a few lawyers whom you've heard do good work, then meet or talk to each and choose one. We'll talk more about lawyers' fees below.

## C. How to Avoid Sleazy Lawyers

There are good and bad immigration lawyers out there. Some of the good ones are candidates for sainthood—they put in long hours dealing with a difficult bureaucracy on behalf of a clientele that typically can't pay high fees.

The bad ones are a nightmare—and there are more than a few of them. They typically try to do a high-volume business, churning out the same forms for every client regardless of their situation. Such lawyers can get clients into deep trouble by overlooking critical issues in their cases or failing to submit applications or court materials on time. But the one thing they never seem to forget is to send a huge bill for their supposed help. Some signs to watch for are:

- **The lawyer approaches you in a USCIS office or other public location and tries to solicit your business.** This is not only against the lawyers' rules of professional ethics, but no competent lawyer ever needs to find clients this way.
- **The lawyer makes big promises, such as "I guarantee I'll win your case," or "I've got a special contact that will put your application at the front of the line."** The U.S. government is in ultimate control of your application, and any lawyer who implies they have special powers is either lying or may be involved in something you don't want to be a part of.
- **The lawyer has a very fancy office and wears a lot of flashy gold jewelry.** A fancy office or a \$2,000 outfit aren't necessarily signs of a lawyer's success at winning cases. These trappings may instead be signs that the lawyer charges high fees and counts on impressing his clients with clothing rather than results.
- **The lawyer encourages you to lie on your application.** This is a tricky area. On the one hand, a good lawyer can assist you in learning what

information you don't want to needlessly offer up, and can help you present the truth in the best light possible. But a lawyer who coaches you to lie—for example, by telling you to pretend you lost your passport and visa when in fact you entered the United States illegally—isn't ethical. There's every chance that USCIS knows the lawyer's reputation and will scrutinize your application harder because of it.

You might think that the really bad lawyers would be out of business by now, but that isn't the case. Sad to say, neither the attorney bar associations nor the courts nor even the police take much interest in going after people who prey on immigrants. Occasionally, nonprofits devoted to immigrants' rights will attempt to get the enforcement community interested in taking action. Unfortunately, this threat of official scrutiny isn't much of a deterrent.



**If you are the victim of an unscrupulous lawyer, complain!** Law enforcement won't go after lawyers who prey on immigrants until there is enough community pressure. If a lawyer, or someone pretending to be a lawyer, pulls something unethical on you, report it to the state and local bar association and the local District Attorney's office. Ask your local nonprofits if anyone else in your area is collecting such information.

## D. How to Choose Among Lawyers

Once you've got your "short list" of lawyers, you'll want to speak to each one. How much a lawyer charges is bound to be a factor in whom you choose (see Section F, below). But it shouldn't be the only factor. Here are some other important considerations.

### 1. Familiarity With Cases Like Yours

As mentioned above, immigration law is a specialized area. And some immigration lawyers spend much of their time in subspecialties, such as helping people obtain political asylum or employment-based visas. To learn how much experience a lawyer has in fiancé

or marriage-based visas, ask some very practical questions, such as:

- How long do you expect my case to take?
- What is the reputation of the officers at the USCIS or consular office who will handle my case?
- How many marriage-based cases did you handle this year?

### 2. Client Rapport

Your first instinct in hiring a lawyer may be to look for a shark—someone you wouldn't want to leave your child with, but who will be a tough fighter for your case. This isn't necessarily the best choice in the immigration context. Since you may need to share some highly confidential issues with your lawyer, you'll want to know that the person is discreet and thoughtful. Also, realize that a lawyer's politeness goes a long way in front of immigration officials—sharks often produce a bureaucratic backlash, whereas the lawyers with good working relations with USCIS may have doors opened to them.

### 3. Access to Your Lawyer

You'll want to know that you can reach your lawyer during the months that your application winds its way through the USCIS or consular bureaucracy. A lawyer's accessibility may be hard to judge at the beginning, but try listening to the lawyer's receptionist as you wait in his or her office for the first time. If you get the sense that the receptionist is rude and trying to push people off or give them flimsy excuses about why the lawyer hasn't returned their calls or won't talk to them, don't hire that lawyer.

Many immigration lawyers are sole practitioners and use an answering machine rather than a receptionist. In that case, you'll have to rely on how quickly they answer your initial calls. In your first meeting, simply ask the lawyer how quickly he or she will get back to you. If the lawyer regularly breaks promises, you'll have grounds on which to complain. Of course, you too have a responsibility not to harass your lawyer with frequent calls. The

lawyer should be available for legitimate questions about your case, including inquiries about approaching deadlines.

## 4. Explaining Services and Costs

Take a good look at any printed materials the lawyer gives you on your first visit. Are they glitzy, glossy pieces that look more like advertising than anything useful? Or are they designed to acquaint you with the process you're getting into and the lawyer's role in it? Think about this issue again before you sign the lawyer's fee agreement, described in the section immediately below. Being a good salesperson doesn't necessarily make someone a good lawyer.

## E. Signing Up Your Lawyer

Many good lawyers will ask you to sign an agreement covering their services and the fees you will pay them. This is a good idea for both of you, and can help prevent misunderstandings. The contract should be written in a way you can understand; there's no law that says it has to be in confusing legal jargon. The lawyer should go over the contract with you carefully, not just push it under your nose, saying, "Sign here." Some normal contract clauses include:

- **Scope of work.** A description of exactly what the lawyer will do for you.
- **Fees.** Specification of the amount you'll pay, either as a flat fee (a lump sum you pay for a stated task, such as \$1,000 for an Adjustment of Status application) or at an hourly rate, with a payment schedule. If you hire someone at an hourly rate, you can ask to be told as soon as the hours have hit a certain limit.



**Don't pay a big flat fee up front.** Since the lawyer already has your money, he or she will have little incentive to please you. And if you don't like the lawyer later on, chances are you won't get any of your money back. Instead, pay for a few hours' service—then if you don't like the lawyer's work, end the relationship.

- **Responsibility for expenses.** Most lawyers will ask you to cover the incidental expenses associated with the work that they do, such as phone calls, postage, and photocopying. This is fair. After all, if your case requires a one-hour phone call to the consulate in Brunei, that call shouldn't eat up the lawyer's fee. But check carefully to be sure that the lawyer charges you the actual costs of these items. Some lawyers have been known to turn a tidy profit by charging, for example, 20 cents a page for a photocopy job that really costs only three cents a page.
- **Effect of nonpayment.** Many lawyers charge interest if you fail to pay on time. This is normal and probably not worth making a big fuss about. If you have trouble paying on time, call the lawyer and ask for more time—he or she may be willing to forego the interest if it's clear you're taking your obligation seriously.
- **Exclusion of guarantee.** The lawyer may warn you that there's no guarantee of winning your case. Though this may appear as if the lawyer is looking for an excuse to lose, it is actually a responsible way for the lawyer to protect against clients who assume they're guaranteed a win; or who later accuse the lawyer of having made such promises. After all, USCIS or the consulate is the ultimate decision maker on your case.
- **Effect of changes in case.** Most lawyers will warn you that if there is something you didn't tell them about (for example, that you are still married to another spouse) or a significant life change affects your case (for instance, you get arrested), they will charge you additional fees to cover the added work these revelations will cause. This too is normal; but to protect yourself against abuse, make very sure that the contract specifies in detail all the work that is already included. For example, a contract for a lawyer to help you with a green card application within the United States might specify that the lawyer will be responsible for "preparation of visa petition and adjustment of status packet, filing all applications with USCIS, representation at interview, and reasonable follow-up with USCIS." If the lawyer agrees to include work

on any special waivers or unusual documents, make sure these are mentioned in the contract (for example, an HIV waiver or an extra Affidavit of Support from a joint sponsor).

### Watch Out for Nonlawyers Practicing Immigration Law

Because much of immigration law involves filling out forms, people assume it's easy. They're wrong. Be careful about whom you consult with or hand your case over to. Unless the person shows you certification that they are a lawyer or an "accredited representative," or a paralegal working under the direct supervision of a lawyer, they should be thought of as typists. (An accredited representative is a nonlawyer who has received training from a lawyer and been recognized by USCIS as qualified to prepare USCIS applications and represent clients in court.) And this is true even though they may go by fancy names such as "immigration consultant" or "notary public"—these people do not have a law degree. To check on whether someone is really a lawyer, ask for their Bar Number and call the state bar association.

Hiring a nonlawyer or nonaccredited representative is only appropriate if you want help with the form preparation, and no more. But as you know from reading the information on filling out forms in Chapter 4, even the address you enter can have legal consequences. Don't just turn your case over and let the consultant make the decisions.

If you feel you've been defrauded by an immigration consultant, you may want to sue in Small Claims Court; see *Everybody's Guide to Small Claims Court*, by Ralph Warner (Nolo).

## F. Paying Your Lawyer

You may have to pay an initial consultation fee as well as a fee for the lawyer's services. The initial consultation fee is usually around \$100 (in fact, this

is the mandatory upper limit per half hour for lawyers who receive AILA referrals). Some good lawyers provide free consultations. But many have found that they can't afford to spend a lot of their time this way, since many immigrants have no visa or remedy available to them, which means the lawyer gets no work after the initial consultation. Be ready to pay a reasonable fee for your initial consultation, but do not sign any contracts for further services until you're confident you've found the right lawyer. This usually means consulting with several lawyers first.

### 1. Flat Rates and Hourly Rates

Many lawyers charge flat rates for green card applications. That means you can compare prices. The current range in the United States for a basic fiancé visa is between \$700 and \$2,000, and a marriage-based application runs anywhere from \$800 to \$3,000. If the lawyer quotes an hourly rate instead, expect to pay between \$100 and \$300 per hour.

A higher rate doesn't necessarily mean a better lawyer. Those who charge less may be keeping their overhead low, still making their name in the business, or philosophically opposed to charging high fees. But an extremely low fee may be a sign that the person isn't really a lawyer, as covered in "Watch Out for Nonlawyers Practicing Immigration Law," above.

### 2. If All the Rates Are Too High

If the prices you are being quoted are beyond your reach but you definitely need legal help, you have a couple of options. One is to ask the lawyer to split the work with you. With this arrangement, the lawyer consults with you solely about the issue causing you difficulty, reviews a document, or performs some other key task, at the hourly rate; while you do the follow-up work, such as filling out the application forms and translating or writing documents, statements, letters, or more.

Be forewarned, though, that while many lawyers will sell you advice on an hourly basis, most won't



want to get into a mixed arrangement unless they are sure they won't end up cleaning up anything you might do wrong. For example, a lawyer might not agree to represent you in a USCIS interview if the lawyer wasn't hired to review your forms and documents before you submitted them to USCIS.

Another option is to look for a nonprofit organization that helps people with family visa cases. A few provide free services, while most charge reduced rates. But don't get your hopes too high. The U.S. government does not fund organizations that provide services to immigrants (except for very limited types of services), which means that most nonprofits depend on private sources of income, and are chronically underfunded. The result is that many nonprofits will have long backlogs of cases and may not be able to take your case at all.

## G. Firing Your Lawyer

You have the right to fire your lawyer at any time. But before you take this step, make sure that your disagreement is about something that is truly the lawyer's fault. Many people blame their lawyer for delays that are actually caused by USCIS or the consulates. You can always consult with another lawyer

regarding whether your case has been mishandled. Ask your lawyer for a complete copy of your file first (to which you have a right at any time). If it appears that your case was mishandled, or if relations with your lawyer have deteriorated badly, firing the lawyer may be the healthiest thing for you and your immigration case.

You will have to pay the fired lawyer for any work that has already been done on your case. If you originally paid a flat fee, the lawyer is permitted to keep enough of the fee to cover the work already done, at the lawyer's hourly rate, limited by the total flat fee amount. Ask for a complete list of hours worked and how those hours were spent. Don't count on getting any money back, however—flat fees are often artificially low, and it's very easy for a lawyer to show that he or she used up your fee on the work that was done.

Firing your lawyer will not affect the progress of your applications with USCIS or the consulate. However, you should send a letter to the last USCIS or consular office you heard from, directing them to send all future correspondence directly to you (or to your new lawyer).

## H. Do-It-Yourself Legal Research

With or without a lawyer, you may at some point wish to look at the immigration laws yourself. If so, we applaud your self-empowerment instinct—but need to give you a few warnings. A government spokesperson recently called the immigration laws a “mystery, and a mastery of obfuscation” (spokeswoman Karen Kraushaar, quoted in *The Washington Post*, April 24, 2001). She couldn't have said it better. One is tempted to think that the members of the U.S. Congress who write and amend the immigration laws deliberately made them unreadable, perhaps to confuse the rest of the representatives so they wouldn't understand what they were voting on.

The result is that researching the immigration laws is something even the experts find difficult—which means you may be wading into treacherous waters if you try it on your own. Figuring out local USCIS office procedures and policies can be even more



**Utah**

State Animal: Rocky Mountain Elk

difficult. Lawyers learn a great deal through trial and error, or by attending meetings and reading articles written by other lawyers who tried something first or who learned important information from USCIS or State Department cables, memos, or other instructions. Unfortunately, you won't have access to these sources.

Does all this mean that you shouldn't ever look farther than this book? Certainly not. And some research inquiries are quite safe—for instance, if we've cited a section of the law and you want to read the exact language or see whether that section has changed, there's no magic in looking up the law and reading it. But in general, be cautious when researching, and look at several sources to confirm your findings.

Immigration laws are federal, meaning they are written by the U.S. Congress and do not vary from one state to another (though procedures and priorities for carrying out the laws may vary among USCIS offices in different cities or states). Below we give you a rundown on the most accessible research tools—and not coincidentally, the ones that immigration lawyers most often use.

## 1. The Federal Code

The federal immigration law is found in Title 8 of the United States Code. Any law library (such as the one at your local courthouse or law school) should have a complete set of the U.S. Code (traditionally abbreviated as U.S.C.). The library may also have a separate volume containing exactly the same material, but called the Immigration and Nationality Act, or I.N.A.

Unfortunately, the two sets of laws are numbered a bit differently, and not all volumes of the I.N.A. cross-reference back to the U.S. Code, and vice versa. For this reason, when code citations are mentioned in this book, we include both the U.S.C. and I.N.A. numbers. You can also access the U.S. Code via Nolo's website, at [www.nolo.com](http://www.nolo.com). On the home page, click on Legal Research Center, then choose U.S. Laws and Regulations. If you already know the title (which is 8) and section, you can enter them

and pull up the text immediately. If you don't have the section number, use Nolo's site to link you to a search engine.

## 2. USCIS and State Department Regulations and Guidance

Another important source of immigration law is the Code of Federal Regulations, or C.F.R. Federal regulations are written by the agencies responsible for carrying out federal law. The regulations are meant to explain in greater detail just how the federal agency is going to carry out the law. You'll find the USCIS regulations at Title 8 of the C.F.R., and the Department of State regulations (relevant to anyone whose application is being decided at a U.S. consulate) at Title 22 of the C.F.R. The USCIS and Department of State regulations are helpful, but certainly don't have all the answers. Again, your local law library will have the C.F.R.s, as does Nolo's Legal Research Center at [www.nolo.com](http://www.nolo.com).

If you are applying from overseas, you may also wish to look at the State Department's *Foreign Affairs Manual*. This is primarily meant to be an internal government document, containing instructions to the consulates on handling immigrant and nonimmigrant visa cases. However, it is available for public researching as well; your local law library may be able to find you a copy, or see the State Department's website, at [www.foia.state.gov/REGS/search.asp](http://www.foia.state.gov/REGS/search.asp).

## 3. Information on the Internet

If you have Internet access, you will want to familiarize yourself with the USCIS and State Department websites. The addresses are [www.uscis.gov](http://www.uscis.gov) and [www.state.gov](http://www.state.gov). The USCIS website offers advice on various immigration benefits and applications (though the advice is so brief as to sometimes be misleading), downloads of most immigration forms, and current fees. On the State Department website, most of the useful information is found under "visas," including the monthly *Visa Bulletin*, links to U.S. embassies and consulates overseas, and downloads of a few consular forms.

The Internet is full of sites put up by immigration lawyers as well as immigrants. Because the quality of these sites varies widely, we don't even attempt to review them here. Many of the lawyers' sites are blatant attempts to give out only enough information to bring in business. The sites by other immigrants are well-meaning and can be good for finding out about people's experiences; but they're not reliable when it comes to hard legal or procedural facts.

That said, a couple of lawyer sites that contain useful information include [www.shusterman.com](http://www.shusterman.com) (with processing times at USCIS Service Centers); [www.visalaw.com](http://www.visalaw.com) (run by the firm of Siskind, Susser, Haas & Devine, and including regular updates on immigration law matters); and [www.ilw.com](http://www.ilw.com) (a privately run website called the "immigration portal," which includes various chat room opportunities).

#### 4. Court Decisions

Immigrants who have been denied visas or green cards often appeal these decisions to the federal courts. The courts' decisions in these cases are supposed to govern the future behavior of USCIS and the consulates. However, your marriage-based visa case should never get to the point where you're discussing court decisions with a USCIS or State Department official, arguing that your case should (or should not) fit within a particular court decision. For one thing, the officials are not likely to listen until they get a specific directive from their superiors or the court decision is incorporated into their agency's regulations (the C.F.R.). For another thing, such discussions probably mean that your case has become complicated enough to need a lawyer. We do not attempt to teach you how to research federal court decisions here.

#### 5. Legal Publications

Two high-quality and popular resources used by immigration lawyers are *Interpreter Releases*, a weekly update published by Federal Publications Inc. (a West Group company); and *Immigration Law and Procedure*, a multivolume, continually updated looseleaf set by Charles Gordon, Stanley Mailman, and Stephen Yale-Loehr (LEXIS Publishing). Again, you should be able to find both at your local law library. Both are very well indexed. They are written for lawyers, so you'll have to wade through some technical terminology.

#### Internet Resources

This list summarizes the useful Internet sites that have been mentioned in this book.

- U.S. Citizenship and Immigration Services (USCIS): [www.uscis.gov](http://www.uscis.gov)
- The U.S. Department of State: [www.state.gov](http://www.state.gov)
- U.S. consulates and embassies abroad: [www.travel.state.gov/links.html](http://www.travel.state.gov/links.html)
- USCIS Offices in the U.S. and abroad: [www.uscis.gov/graphics/fieldoffices/index.htm](http://www.uscis.gov/graphics/fieldoffices/index.htm)
- List of nonprofit agencies approved by USCIS: [www.uscis.gov/graphics/lawsregs/advice.htm](http://www.uscis.gov/graphics/lawsregs/advice.htm)
- Attorney Carl Shusterman: [www.shusterman.com](http://www.shusterman.com)
- Siskind, Susser, Haas & Devine: [www.visalaw.com](http://www.visalaw.com)
- "Immigration portal" website: [www.ilw.com](http://www.ilw.com).



# Glossary

## Words You Will Need to Know

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**A-Number:** An eight-digit number following the letter A (for Alien) that USCIS assigns to you when you apply for your green card. People who apply for certain other immigration benefits, or who are placed in removal proceedings, also receive an A-number. Once you are assigned this number, USCIS uses it to track your file. You should include it on any correspondence with USCIS.

**Adjustment of Status:** The procedure for becoming a lawful permanent resident without having to leave the United States. Adjustment of Status is available only to immigrants who fit certain eligibility criteria. Many immigrants will have to use the traditional method of gaining permanent residence, even if they already live in the United States, which involves applying for an immigrant visa at a U.S. consulate or embassy abroad (consular processing).

**Adjustment interview:** Normally the final step in applying for Adjustment of Status or a green card within the United States. At the interview, a USCIS officer personally reviews the application, speaks with the applicant and approves or denies the application.

**Alien:** USCIS uses this term to refer to “a foreign-born person who is not a citizen or national of the United States.” I.N.A. Section 101(a)(3), 8 U.S.C. Section 1101(a)(3). In other words, the word covers everyone from illegal aliens to green card holders. We don’t use the term very much in this book, but you’ll need to get used to the word if you do additional research.

**Beneficiary:** A person intending to immigrate to the United States, for whom a family member in the United States has filed a visa petition in order to sponsor the would-be immigrant.

**Border Patrol:** The informal name for an agency called Customs and Border Protection (CBP), which, like USCIS, is part of the Department of Homeland Security (DHS). Its primary functions include keeping the borders secure from illegal crossers, and meeting legal entrants at airports and border posts to check their visas and decide whether they should be allowed into the United States.

**Citizen (U.S.):** A person who owes allegiance to the U.S. government, is entitled to its protection, and enjoys the highest level of rights due to members of U.S. society. People become U.S. citizens through their birth in the United States or its territories, through their parents, or through naturalization (applying for citizenship and passing the citizenship exam). Citizens cannot have their status taken away except for certain extraordinary reasons. See the immigration section of Nolo’s legal encyclopedia at [www.nolo.com](http://www.nolo.com) for more information.

**Citizenship exam:** The test that a lawful permanent resident must pass before he or she can become a U.S. citizen, covering the English language as well as U.S. civics, history, and government.

**Conditional resident:** A person whose status is almost identical to that of a lawful permanent resident, except that the status expires after a set period of time. Immigrants whose marriages to U.S. citizens



haven't reached their second anniversary by the time they're approved for residency become conditional residents. Their residency will expire after another two years. USCIS may then approve the person for permanent residency. On rare occasions where it becomes apparent even before the two-year expiration date that the marriage was a sham, USCIS can terminate a conditional resident's status immediately (see I.N.A. Section 216(b)(1); 8 U.S.C. Section 1186a(b)(1)).

**Consular interview:** Normally the final major step in the process of applying for a green card from overseas. At the interview, a U.S. consular officer personally reviews the application, speaks with the applicant, and approves or denies an entry visa. (The U.S. border officer has the final say, however, in whether the entry visa can be exchanged for the green card or lawful permanent resident status.)

**Consular processing:** The green card application process for immigrants whose final interview and visa decision will happen at an overseas U.S. embassy or consulate.

**Consulate:** An office of the U.S. Department of State located overseas and affiliated with a U.S. embassy in that country's capital city. The consulate's responsibilities usually include processing visa applications.

**Customs and Border Protection (CBP):** See Border Patrol, above.

**Department of Homeland Security (DHS):** A government agency created in 2003 to handle immigration and other security-related issues. DHS became the umbrella agency encompassing USCIS, ICE, and CBP.

**Department of Justice:** An agency of the U.S. federal government that oversees the Immigration Courts.

**Department of State:** An agency of the United States federal government that oversees U.S. embassies and consulates.

**Deportable:** An immigrant who falls into one of the grounds listed at I.N.A. Section 237, 8 U.S.C. Section 1227, is said to be deportable, and can be removed from the United States after a hearing in Immigration Court. Even a permanent resident can be deported.

**Deport/Deportation:** See Removal, below.

**Direct consular filing:** A service provided at a few U.S. consulates overseas, by which a person can submit all of the paperwork for a marriage-based visa directly to the consulate. This service saves the time that applicants must normally spend waiting for certain portions of their application to be approved by or transferred from USCIS offices in the United States.

**District Office:** One of 33 USCIS offices in the United States that serves the public in a specified geographical area. District offices are where most USCIS field staff are located. District offices usually have an information desk, provide USCIS forms, and accept and make decisions on some—but not all—applications for immigration benefits. For a list of locations, see Appendix D or the USCIS website at [www.uscis.gov](http://www.uscis.gov).

**EAD:** See Employment Authorization Document, below.

**Embassy:** The chief U.S. consulate within a given country, usually located in the capital city. This is where the U.S. ambassador lives. Most of the embassies handle applications for visas to the United States.

**Employment Authorization Document (EAD):** More commonly called a work permit, this is a card with one's photo on it that indicates that the card holder has the right to work in the United States. Green card holders no longer need to have an EAD.

**Executive Office for Immigration Review:** See Immigration Court, below.

**Expedited removal:** This refers to the all-too-short and not-so-sweet procedures by which Customs and Border Patrol officers at U.S. borders and ports of entry may decide that a person cannot enter the United States. See I.N.A. Section 235(b), 8 U.S.C. Section 1225(b). The officers can refuse entry when they believe the person has used fraud or is carrying improper documents. People removed this way are barred from reentering the United States for five years.

**Family Unity:** A special program for spouses and children of people who received residency through Amnesty or Cuban/Haitian Adjustment in

the late 1980s (Amnesty was a one-time program, benefiting people who had been living or doing farm work illegally in the United States). Through the Family Unity program, these family members receive a temporary right to live and work in the United States while waiting to become eligible for permanent residence through a family visa petition.

**Fraud interview:** A specialized USCIS interview in which one or both members of an engaged or married couple are examined to see whether their marriage is real, or just a sham to get the foreign-born person a green card.

**Green card:** No longer green, this slang term refers to the identification card carried by lawful permanent residents of the United States. In this book, we also use it to refer to the card received by conditional residents. The USCIS name for the green card is an “I-551” or “Alien Registration Receipt Card.” Don’t confuse it with the other card often carried by noncitizens, the work permit or Employment Authorization Document.

**Green card holder:** This is the common slang term, used widely in this book, for an immigrant or a lawful resident, whether permanent or conditional.

**I-94:** A small green or white card that is placed in all nonimmigrants’ passports when they enter the United States. The I-94 shows the date when the person’s authorized stay expires. Many people wrongly believe that they can stay until the expiration date in their original visa. Unfortunately, it’s the date in the I-94 that controls (although if the visa remains valid, the person may reenter the United States).

**Illegal alien:** Illegal alien is more of a slang term than a legal term, usually referring to people who have no permission to live in the United States. The preferred legal term is “undocumented person.”

**Immediate relative:** An immediate relative is the spouse, parent, or unmarried child under age 21 of a U.S. citizen. Immediate relatives can apply for green cards without worrying about quotas or waiting periods. “Spouses” include widows and widowers who apply for the green card within two years of the U.S. citizen spouse’s death.

Parents must wait until their U.S. citizen child is age 21 to apply. Children can include stepchildren and adopted children (subject to further requirements).

**Immigrant:** Though the general public usually calls any foreign-born newcomer to the United States an immigrant, USCIS prefers to think of immigrants as only including those persons who have attained “permanent residency” or a green card. Everyone else is called a nonimmigrant, even though they’re in the United States.

**Immigration Court:** Also known as the “Executive Office for Immigration Review” or “EOIR” (a handy name to know if you ever need to look it up in the phone book). This is the first court that will hear your case if you are placed in removal proceedings. Cases are heard by an “Immigration Judge,” who doesn’t hear any other type of case. USCIS has its own crew of trial attorneys who represent the agency in court.

**Immigration and Customs Enforcement (ICE):** This agency of the Department of Homeland Security handles enforcement of the immigration laws within the U.S. borders.

**Immigration and Nationality Act (I.N.A.):** A portion of the federal code containing all the immigration laws. The I.N.A. is also contained in the United States Code (U.S.C.) at Title 8, which you can find via the Legal Research Center of Nolo’s website at [www.nolo.com](http://www.nolo.com) (look on the home page, under the heading “Free Information and Tools”).

**Immigration and Naturalization Service (INS):** Formerly, a branch of the United States Department of Justice, responsible for controlling the United States borders, enforcing the immigration laws, and processing and judging the cases of immigrants living in the United States. However, in 2003, the INS was absorbed into the Department of Homeland Security, and its functions divided between U.S. Citizenship and Immigration Services (USCIS), Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE).

**Inadmissible:** A person to whom the U.S. government will deny a visa or admission to the United States

because he or she falls into one of the categories listed at I.N.A. Section 212, 8 U.S.C. Section 1182. Broadly speaking, these categories of inadmissibility cover people who might be a burden on or risk to the U.S. government or public for health, security, or financial reasons. Replaces the formerly used term “excludible.” Green card holders who leave the United States can also be found inadmissible upon attempting to return.

**K-1 Visa:** The State Department’s name for a fiancé visa.

**K-2 Visa:** The State Department’s name for the visa given to unmarried children under age 21 who accompany someone on a fiancé visa.

**K-3 Visa:** The State Department’s name for the new visa (added by Congress in December 2000) for already-married persons who need to use a so-called fiancé visa as a faster mode of entering the United States.

**Lawful permanent resident:** See Permanent Resident, below.

**National Visa Center (NVC):** an intermediary office responsible for receiving the files of approved visa petition applicants from the various USCIS Service Centers, sending the applicants instruction packets and requests for forms and fees, and ultimately transferring the cases to overseas U.S. consulates. In some cases, the NVC may hold onto an applicant’s files for years, while the immigrant is on the waiting list for a visa.

**Naturalization:** When an immigrant succeeds in attaining U.S. citizenship through submitting an application and passing the citizenship exam, they are said to have “naturalized.”

**Nonimmigrant:** A broad term meant to cover everyone who comes to the United States temporarily. Most nonimmigrants have a specific expiration date attached to their stay. Some others may stay for the “duration of status,” or “D/S,” such as students, who can stay until they complete their education.

**NVC:** See National Visa Center, above.

**Permanent residence:** The status of being a permanent resident; see below.

**Permanent resident:** A “green card holder.” Also called a “lawful permanent resident.” This is a

person who has been approved to live in the United States for an unlimited amount of time. However, the status can be taken away for certain reasons, such as having committed a crime or made one’s home outside the United States. Though the green card itself needs to be renewed every ten years, the actual status doesn’t expire. After a certain number of years (usually five), a permanent resident can apply for U.S. citizenship. But many people remain in the United States for decades without applying for citizenship. Although they cannot vote, permanent residents enjoy many other rights, such as the right to work and travel freely.

**Petitioner:** Someone who has filed a visa petition in order to sponsor a family member to immigrate to the United States.

**Public charge:** The immigration law term for an immigrant who has insufficient financial support and goes on welfare or other government assistance.

**Removal:** A new immigration law term combining the former terms “exclusion” and “deportation.” Removal means the process of sending an alien back to his or her home country because he or she is (or has become) inadmissible or deportable. (Before the laws changed a few years ago, “exclusion” meant sending a person back before they’d entered the United States, and “deportation” meant sending someone away who was already in the United States.)

**Resident:** Someone who is residing legally in the United States, whether temporarily, permanently, or conditionally.

**Service Center:** A USCIS office responsible for accepting and making decisions on particular applications from people in specified geographical areas. Unlike the USCIS District Offices, the Service Centers are not open to the public; all communication must be by letter, with limited telephone access. Though inconvenient to work with, you may have no choice—an application that must be decided by a Service Center will not be accepted or decided by a District Office. For information on Service Center locations, see Appendix C, call the USCIS information line at 800-375-5283, or see

the USCIS website at [www.uscis.gov/graphics/fieldoffices/statemap.htm](http://www.uscis.gov/graphics/fieldoffices/statemap.htm).

**Sponsor (noun):** The traditional but nonlegal term for a Petitioner. In this book, we use “sponsor” more narrowly to refer to someone who is sponsoring an immigrant financially (by signing an Affidavit of Support on the immigrant’s behalf).

**Sponsor (verb):** To “sponsor” an immigrant is the traditional term for “petitioning” the person to come to the United States—that is, initiating a process allowing the immigrant to apply for legal admission and/or status by virtue of a family relation to the sponsor. This term is not found in the immigration laws, however.

**Status:** In the USCIS’s vocabulary, to have “status” means to have a legal right (temporary or permanent) to remain in the United States. For example, green card holders have “permanent resident” status; people on student visas are in student status.

**Summary Exclusion:** See Expedited Removal.

**Time bars:** The common name for the three or ten years that a person may have to spend outside the United States as a penalty for having previously lived there illegally for six months or more. See Chapter 2, Section A, for details.

**United States Code:** See Immigration and Nationality Act, above.

**Unlawful time:** “Unlawful” is a legal term referring to time spent in the United States without documents, an unexpired visa, or any other legal right to be here. How much time a person has spent in the United States unlawfully has become extremely significant within immigration law, for reasons explained in Chapter 2, Section A.

**Visa:** A right to enter the United States. Physically, the visa usually appears as a stamp in the applicant’s passport, given by a United States

consulate overseas. In some cases, the visa is used only to enter the United States, at which time the visa is immediately exchanged for a “status” (such as that of permanent resident); in other cases a person’s entire stay in the United States is covered by a visa (such as a tourist or student visa). Sometimes, however, you’ll hear the terms “visa” and “status” used as if they were interchangeable—in part reflecting the fact that immigrants switching to a new status within the United States are technically granted a visa, or at least a visa number, although they may never see it. Different types of visas have different names, usually with letter codes. For example, a “B” visa is a visitor visa; an “F” visa is a student visa.

**Visa petition:** The first application filed by a U.S. citizen or lawful permanent resident petitioner, which starts the process of bringing their family member to the United States as an immigrant. This application is sometimes referred to by its form number, I-130.

**Visa Waiver Program:** A program that allows citizens of certain countries to enter the United States without a visa and stay for up to 90 days. For details and a list of countries, see [www.travel.state.gov/vwp.html](http://www.travel.state.gov/vwp.html), or talk to your local U.S. consulate. This used to be called the Visa Waiver Pilot Program, when it was a temporary, test program. But in the year 2000, Congress made this program a permanent part of the law.

**Waiver:** An application that a hopeful immigrant files with USCIS, asking them to overlook, or forgive, something that would normally make that person ineligible for an immigration benefit or for entry to the United States. Only certain problems can be waived.

**Work permit:** See Employment Authorization Document (EAD), above. ■





## APPENDIX



# Fee Tables

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Fees for Fiancé Visa Application .....	A/2
Fees for Consular (Overseas) Immigrant Visa Application .....	A/2
Fees for Adjustment of Status (U.S. Green Card Application) .....	A/3

**M**ost USCIS and consular applications require fees to accompany them. For up-to-date fees for United States filings, (even USCIS forms sometimes print out-of-date fees) check the USCIS website at [www.uscis.gov](http://www.uscis.gov). This is particularly important at this time, since USCIS recently proposed a fee increase. Click on USCIS Forms, Fees, and Fingerprints and you'll find your way to a complete fee table. Alternately, you could call the USCIS information line at 800-375-5283.

For up-to-date fees for consular filings, check the State Department's website, [www.state.gov](http://www.state.gov). Under "Travel and Living Abroad," click "more," then "Visa Services for Foreign Citizens," then "Fees—Visa Services." This information may also be accessed through the U.S. State Department's Visa Services office, at 202-663-1225. The fee can be paid in dollars or in the local currency, at the current exchange rate.

To narrow things down for you, here's a table of the forms you're most likely to use, and the fees associated with them. Just add up the total fees and submit a check or money order for that amount (or cash if you'll be paying in person at a local USCIS office; but be prepared for the office to require exact change).



**There will be other expenses.** We've included here only the fees that you'll pay to USCIS or the consulate. But if you're trying to figure out how much to budget for this process, don't forget the costs of other required items, such as photos, the medical exam, and having documents translated or notarized.

### Fees for Fiancé Visa Application

Form	Fee	Notes
Form I-129F	\$165	Primary fiancé visa petition. Pay with check or money order made out to USCIS.
Form G-325A	No fee	
Fiancé Visa Fee	\$100	Paid at consulate in cash (U.S. dollars or currency of the country where the consulate is), check, or money order.
Form I-765	\$175	Work permit application. Pay with check or money order made out to USCIS.

### Fees for Consular (Overseas) Immigrant Visa Application

Form	Fee	Notes
I-130	\$185	
I-864	\$65	This fee applies only to applicants coming from overseas, not to those adjusting status in the United States. It only needs to be paid once, for the primary immigrant, not for accompanying children.
Spousal Visa Issuance	\$335	Paid at consulate.

Fees for Adjustment of Status (U.S. Green Card Application)		
Form	Fee	Notes
I-130	\$185	
G-325A	none	
I-485	\$315 if 14 years or older; \$215 under age 14.	
I-485 Supp. A	\$1,000	You may not have to file this form; see instructions in the chapter covering your situation.
I-693	none	No fee—to USCIS, that is. You will have to pay the doctor; rates vary.
I-864 & I-864A	none	No fee in the U.S., though consular processing applicants do have to pay a \$65 fee.
ADIT Processing	none	
I-765	\$175	Pay separately.
I-601	\$250	Only file if you have committed immigration fraud and need a waiver; not covered in this guide.







## Table of Visas and Immigration Benefits

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Immigrant Visas (for Permanent Resident Status) .....	B/2
Nonimmigrant Visas .....	B/4



Immigrant Visas (for Permanent Resident Status)	
Type of Visa or Benefit	Basis for Eligibility
Family Based	
Immediate Relative	Minor unmarried children or spouses of a U.S. citizen; parent of an over-21-year-old U.S. citizen.
First Preference	Unmarried adult child of a U.S. citizen.
Second Preference: 2A	Spouses and unmarried sons and daughters of lawful permanent residents.
Second Preference: 2B	Unmarried sons and daughters, over the age of 21, of lawful permanent residents.
Third Preference	Married sons and daughters of U.S. citizens.
Fourth Preference	Brothers and sisters of U.S. citizens.
Employment Based	
First Preference	Priority workers who have “extraordinary ability” or are “outstanding professors and researchers” in their field. Also certain multinational executives and managers.
Second Preference	“Members of the professions holding advanced degrees” or “aliens of exceptional ability” in their field.
Third Preference	Skilled workers (2 years’ training or experience), professionals, and “other workers” (capable of performing unskilled, but not temporary or seasonal labor).
Fourth Preference	Special immigrants including ministers, religious workers, former U.S. government employees, and others.
Fifth Preference	Investors in job-creating enterprises in the U.S. (\$500,000 to \$3 million).
Other Benefits or Remedies	
Refugees and Political Asylees	People who fear persecution in their home country based on their race, religion, nationality, political opinion, or membership in a particular social group. Refugees are processed overseas, asylees within the United States.

### Immigrant Visas (for Permanent Resident Status) (continued)

Type of Visa or Benefit	Basis for Eligibility
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#### Other Benefits or Remedies (continued)

**“NACARA” for  
Nicaraguans and Cubans**

An amnesty-like program for Nicaraguans and Cubans who entered the United States before December 1, 1995.

**“NACARA” Suspension  
of Deportation**

For Salvadorans, Guatemalans, and nationals of several former Soviet and Eastern European countries who entered the United States before 1990 (exact date varies by country) and who applied for asylum, “ABC,” or Temporary Protected Status by certain dates; they can apply for “suspension of deportation,” described below.

**Suspension of Deportation**

A remedy normally only available to persons placed in deportation proceedings before April 1, 1997. If the person can prove that he or she has lived in the United States for seven continuous years, has had good moral character, and that the person’s deportation would cause extreme hardship to his or her self or his or her spouse, parent, or children who are U.S. citizens or permanent residents, a judge can grant the person permanent residency.

**Cancellation of Removal**

A remedy only available to persons in removal proceedings. If the person can prove that he or she has lived in the United States for ten continuous years, has good moral character, hasn’t been convicted of certain crimes, and that their deportation would cause exceptional and extreme hardship to his or her lawful permanent resident or U.S. citizen spouse, child, or parent, then a judge may approve the person for permanent residency.

**“VAWA” Cancellation  
of Removal**

For spouses and children of U.S. citizens and permanent residents who have been battered or been victims of extreme cruelty. If such persons can prove that they not only fall into this category but have lived continuously in the United States for three years, have been of good moral character and not committed certain crimes, and that their removal would cause extreme hardship to them, their child, or (if the applicant is a child), their parent, a judge may approve them for permanent residency.

**Registry**

People who have lived in the United States continuously since January 1, 1972 can apply to adjust status to permanent residence.

**Temporary Protected  
Status**

People from certain Congressionally designated countries experiencing war or civil strife; they may apply for a temporary right to stay in the United States until conditions in their home country have improved.

Nonimmigrant Visas	
Type of Visa or Benefit	Basis for Eligibility
A-1	Diplomatic employees
A-2	Officials or employees of foreign governments
B-1	Business visitors
B-2	Tourists or visitors for medical treatment
C-1 “Transit visa”	For passing through at a U.S. airport or seaport
D-1 “Crewmember”	For people serving on a ship or plane, landing or docking temporarily
E-1	Treaty Traders
E-2	Treaty Investors
F-1	Students (academic), including at colleges, universities, seminaries, conservatories, academic high schools, other academic institutions, and in language training
G-1	Employees of international organizations who are representing foreign governments
H-1B	Temporary professionals (for specialty occupations such as doctors, engineers, physical therapists, computer professionals; must have at least a bachelor’s degree)
H-2A	Temporary agricultural workers
H-2B	Temporary and seasonal workers
H-3	Trainees
I	Representatives of international media
J-1	Exchange visitors
K-1	Fiancées and fiancés of U.S. citizens.
K-3	Spouses of U.S. citizens awaiting approval of their marriage-based visa petition and a green card
L-1	Intracompany transferees
M-1	Vocational students
M-3	Citizens or residents of Mexico or Canada commuting to the U.S. to attend vocational school.
N	Children of certain special immigrants.
NATO-1, NATO-2, NATO-3, NATO-4, and NATO-5	Associates coming to the U.S. under applicable provisions of the NATO Treaty
NATO-6	Civilians accompanying military forces on missions authorized under the NATO Treaty
NATO-7	Attendants, servants, or personal employees of NATO-1 through NATO-6 visa holders
O-1	People with extraordinary ability in sciences, arts, business, athletics, or education, and their support staff
P-1	Entertainers, performers, and athletes, and their support staff
P-2	Cultural exchange entertainers
P-3	Artists and entertainers presenting culturally unique programs
Q-1	Exchange visitors in cultural exchange programs
R-1	Religious leaders and workers
S-1	Witnesses in a criminal investigation

Nonimmigrant Visas (continued)	
Type of Visa or Benefit	Basis for Eligibility
<b>T</b>	Women and children who are in the United States because they are victims of human trafficking, cooperating with law enforcement
<b>U</b>	Victims of criminal abuse in the United States who are assisting law enforcement authorities
<b>V</b>	Spouses and unmarried sons and daughters (2A) of U.S. lawful permanent residents who have already waited three years for approval of their visa petition or the availability of a green card, and whose visa petition was on file by December 21, 2000









## USCIS Service Center Addresses

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The following is a list of the USCIS Service Center addresses to which you may need to send certain USCIS forms, including Forms I-129F (for a K-1 visa), I-130, I-765, and I-751. Most of the Service Centers designate different Post Office boxes for receipt of the different forms, so always check this list before sending a new form. (In the future, if you need to submit forms not covered by this book, you'll need to see the USCIS website at [www.uscis.gov/graphics/fieldoffices/service-centers/index.htm](http://www.uscis.gov/graphics/fieldoffices/service-centers/index.htm) for the appropriate address. If you do not have Internet access, call the USCIS information line at 800-375-5283.)

An I-129F for a K-1 visa or I-130 visa petition should be sent to the USCIS Service Center that covers the region where the U.S. petitioner lives. An I-751 petition should be sent to the Service Center that covers the region where the immigrant spouse lives (hopefully at the same address as the petitioning spouse).

For K-3 visa petitions on Form I-129F, use the Chicago Service Center address provided in Chapter 7 of this book regardless of where you live.

Alabama	Louisiana	South Carolina
Arkansas	Mississippi	Oklahoma
Florida	New Mexico	Tennessee
Georgia	North Carolina	Texas
Kentucky		

**For Form I-129F:**

USCIS Texas Service Center  
P.O. Box 850965  
Mesquite, TX 75185-0965

**For Form I-130:**

USCIS Texas Service Center  
P.O. Box 850919  
Mesquite, TX 75185-0919

**For Form I-751:**

USCIS Texas Service Center  
P.O. Box 850965  
Mesquite, TX 75185-0965

**For Form I-765 (fiancé applicants):**

USCIS Texas Service Center  
P.O. Box 851041  
Mesquite, TX 75185-1041

Arizona	Guam	Nevada
California	Hawaii	

**For Form I-129F:**

USCIS/California Service Center  
P.O. Box 10130  
Laguna Niguel, CA 92607-0130

**For Form I-130:**

USCIS/California Service Center  
P.O. Box 10130  
Laguna Niguel, CA 92607-0130

**For Form I-751:**

USCIS/California Service Center  
P.O. Box 10751  
Laguna Niguel, CA 92607-0751

**For Form I-765 (fiancé applicants):**

USCIS/California Service Center  
P.O. Box 10765  
Laguna Niguel, CA 92607-0765

Connecticut	New Jersey	Vermont
Delaware	New York	Virginia
Maine	Pennsylvania	Virgin Islands
Maryland	Puerto Rico	West Virginia
Massachusetts	Rhode Island	Dist. of Columbia
New Hampshire		

**For All Forms:**

USCIS Vermont Service Center  
75 Lower Welden St.  
Saint Albans, VT 05479-0001

Alaska	Michigan	Oregon
Colorado	Minnesota	South Dakota
Idaho	Missouri	Utah
Illinois	Montana	Washington
Indiana	Nebraska	Wisconsin
Iowa	North Dakota	Wyoming
Kansas	Ohio	

**For Form I-129F:**

USCIS/Nebraska Service Center  
P.O. Box 87130  
Lincoln, NE 68501-7130

**For Form I-130:**

USCIS Nebraska Service Center  
P.O. Box 87130  
Lincoln, NE 68501-7130

**For Form I-751**

USCIS Nebraska Service Center  
P.O. Box 87751  
Lincoln, NE 68501-7751

**For Form I-765 (fiancé applicants):**

USCIS Nebraska Service Center  
P.O. Box 87765  
Lincoln, NE 68501-7765

## APPENDIX



# USCIS District Offices and Suboffices

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**NOTE:** This list of USCIS District Offices and suboffices contains street addresses, which are not always the same as the mailing address. For more information, see your District Office website, via [www.uscis.gov/graphics/fieldoffices/index.htm](http://www.uscis.gov/graphics/fieldoffices/index.htm).

**ALABAMA**

USCIS Atlanta District Office  
Martin Luther King, Jr., Federal  
Building  
77 Forsyth Street SW  
Atlanta, GA 30303

**ALASKA**

USCIS Anchorage District Office  
620 East 10th Avenue, Suite 102  
Anchorage, AK 99501

**ARIZONA**

USCIS Tucson Suboffice  
6431 South Country Club Road  
Tucson, AZ 85706-5907

USCIS Phoenix District Office  
2035 North Central Avenue  
Phoenix, AZ 85004

**ARKANSAS**

USCIS New Orleans District Office  
701 Loyola Avenue  
New Orleans, LA 70113

USCIS Fort Smith Suboffice  
4991 Old Greenwood Road  
Fort Smith, AR 72903

**CALIFORNIA**

USCIS Fresno Suboffice  
865 Fulton Mall  
Fresno, CA 93721

USCIS Los Angeles District Office  
300 North Los Angeles Street,  
Room 1001  
Los Angeles, CA 90012

USCIS Sacramento Suboffice  
650 Capitol Mall  
Sacramento, CA 95814

USCIS San Diego District Office  
880 Front Street, Suite 1234  
San Diego, CA 92101

USCIS San Francisco District Office  
444 Washington Street  
San Francisco, CA 94111

USCIS San Jose Suboffice  
1887 Monterey Road  
San Jose, CA 95112

USCIS Santa Ana Suboffice  
34 Civic Center Plaza  
Federal Building  
Santa Ana, CA 92701

**COLORADO**

USCIS Denver District Office  
4730 Paris Street  
Denver, CO 80239

**CONNECTICUT**

USCIS Boston District Office  
John F. Kennedy Federal Building  
Government Center  
Boston, MA 02203

USCIS Hartford Suboffice  
450 Main Street, 4th Floor  
Hartford, CT 06103-3060

**DELAWARE**

USCIS Philadelphia District Office  
1600 Callowhill Street  
Philadelphia, PA 19130

USCIS Dover Satellite Office  
1305 McD Drive  
Dover, DE 19901

**DISTRICT OF COLUMBIA**

USCIS Washington District Office  
4420 N. Fairfax Drive  
Arlington, VA 22203

**FLORIDA**

USCIS Miami District Office  
7880 Biscayne Boulevard  
Miami, FL 33138

USCIS Jacksonville Suboffice  
4121 Southpoint Boulevard  
Jacksonville, FL 32216

USCIS Orlando Suboffice  
9403 Tradeport Drive  
Orlando, FL 32827

USCIS Tampa Suboffice  
5524 West Cypress Street  
Tampa, FL 33607-1708

USCIS West Palm Beach Satellite  
Office  
326 Fern Street  
West Palm Beach, FL 33401

**GEORGIA**

USCIS Atlanta District Office  
Martin Luther King, Jr., Federal  
Building  
77 Forsyth Street SW  
Atlanta, GA 30303

**GUAM**

USCIS Honolulu District Office  
595 Ala Moana Boulevard  
Honolulu, HI 96813

**HAWAII**

USCIS Honolulu District Office  
595 Ala Moana Boulevard  
Honolulu, HI 96813

**IDAHO**

USCIS Helena District Office  
2800 Skyway Drive  
Helena, MT 59602

USCIS Boise Suboffice  
1185 South Vinnell Way  
Boise, ID 83709

**ILLINOIS**

USCIS Chicago District Office  
10 West Jackson Boulevard  
Chicago, IL 60604

Chicago USCIS Adjudications  
Office  
230 S. Dearborn, 23rd floor  
Chicago, IL 60604

Chicago USCIS Citizenship Office  
539 S. LaSalle  
Chicago, IL 60605

## **INDIANA**

USCIS Chicago District Office  
10 West Jackson Boulevard  
Chicago, IL 60604

USCIS Indianapolis Suboffice  
950 N. Meridian St., Room 400  
Indianapolis, IN 46204

## **IOWA**

USCIS Omaha District Office  
3736 South 132nd Street  
Omaha, NE 68144

## **KANSAS**

USCIS Kansas City District Office  
9747 Northwest Conant Avenue  
Kansas City, MO 64153

USCIS Wichita Satellite Office  
271 West 3rd Street North, Suite  
1050  
Wichita, KS 67202-1212

## **KENTUCKY**

USCIS New Orleans District  
701 Loyola Avenue  
New Orleans, LA 70113

USCIS Louisville Suboffice  
Gene Snyder U.S. Courthouse and  
Customhouse  
Room 390  
601 West Broadway  
Louisville, KY 40202

## **LOUISIANA**

USCIS New Orleans District  
701 Loyola Avenue  
New Orleans, LA 70113

## **MAINE**

USCIS Portland District Office  
176 Gannett Drive  
South Portland, ME 04106

## **MARYLAND**

USCIS Baltimore District Office  
Fallon Federal Building  
31 Hopkins Plaza  
Baltimore, MD 21201

## **MASSACHUSETTS**

USCIS Boston District Office  
John F. Kennedy Federal Building  
Government Center  
Boston, MA 02203

## **MICHIGAN**

USCIS Detroit District Office  
333 Mt. Elliot  
Detroit, MI 48207

## **MINNESOTA**

USCIS St. Paul District Office  
2901 Metro Drive, Suite 100  
Bloomington, MN 55425

## **MISSISSIPPI**

USCIS New Orleans District  
701 Loyola Avenue  
New Orleans, LA 70113

USCIS Jackson Suboffice  
100 West Capitol Street  
Jackson, MS 36269

## **MISSOURI**

USCIS Kansas City District  
9747 Northwest Conant Avenue  
Kansas City, MO 64153

## **MONTANA**

USCIS Helena District Office  
2800 Skyway Drive  
Helena, MT 59602

## **NEBRASKA**

USCIS Omaha District Office  
3736 South 132nd Street  
Omaha, NE 68144

## **NEVADA**

USCIS Phoenix District Office  
2035 North Central Avenue  
Phoenix, AZ 85004

USCIS Las Vegas Suboffice  
3373 Pepper Lane  
Las Vegas, NV 89120-2739

USCIS Reno Suboffice  
1351 Corporate Boulevard  
Reno, NV 89502

## **NEW HAMPSHIRE**

USCIS Boston District Office  
John F. Kennedy Federal Building  
Government Center  
Boston, MA 02203

USCIS Manchester Satellite Office  
803 Canal Street  
Manchester, NH 03101

## **NEW JERSEY**

USCIS Newark District Office  
Peter Rodino, Jr., Federal Building  
970 Broad Street  
Newark, NJ 07102

USCIS Cherry Hill Suboffice  
1886 Greentree Road  
Cherry Hill, NJ 08003

## **NEW MEXICO**

USCIS El Paso District Office  
1545 Hawkins Boulevard, Suite 167  
El Paso, TX 79925

USCIS Albuquerque Suboffice  
1720 Randolph Road SE  
Albuquerque, NM 87106

## **NEW YORK**

USCIS Buffalo District Office  
Federal Center  
130 Delaware Avenue  
Buffalo, NY 14202

USCIS New York City District  
Office  
26 Federal Plaza  
New York City, NY 10278

USCIS Albany Suboffice  
1086 Troy-Schenectady Road  
Latham, NY 12110

## **NORTH CAROLINA**

USCIS Atlanta District Office  
Martin Luther King, Jr., Federal  
Building  
77 Forsyth Street SW  
Atlanta, GA 30303



USCIS Charlotte Suboffice  
6130 Tyvola Centre Drive  
Charlotte, NC 28217

**NORTH DAKOTA**

USCIS St. Paul District Office  
2901 Metro Drive, Suite 100  
Bloomington, MN 55425

**OHIO**

USCIS Cleveland District Office  
A.J.C. Federal Building  
1240 East Ninth Street, Room 501  
Cleveland, OH 44199

USCIS Cincinnati Suboffice  
J.W. Peck Federal Building  
550 Main Street, Room 4001  
Cincinnati, OH 45202

**OKLAHOMA**

USCIS Dallas District Office  
8101 North Stemmons Freeway  
Dallas, TX 75247

USCIS Oklahoma City Suboffice  
4400 SW 44th Street  
Oklahoma City, OK 73119

**OREGON**

USCIS Portland, Oregon, District Office  
511 NW Broadway  
Portland, OR 97209

**PENNSYLVANIA**

USCIS Philadelphia District Office  
1600 Callowhill Street  
Philadelphia, PA 19130

USCIS Pittsburgh Suboffice  
1000 Liberty Avenue  
Federal Building, Room 314  
Pittsburgh, PA 15222-4181

**PUERTO RICO**

USCIS San Juan District Office  
San Patricio Office Center  
7 Tabonuco Street, Suite 100  
Guaynabo, PR 00968

USCIS Charlotte Amalie Suboffice  
Nisky Center, Suite 1A  
First Floor South  
Charlotte Amalie, St. Thomas  
U.S. Virgin Islands 00802

USCIS San Croix Suboffice  
Sunny Isle Shopping Center  
Christiansted, St. Croix  
U.S. Virgin Islands 00820

**RHODE ISLAND**

USCIS Boston District Office  
John F. Kennedy Federal Building  
Government Center  
Boston, MA 02203

USCIS Providence Suboffice  
200 Dyer Street  
Providence, RI 02903

**SOUTH CAROLINA**

USCIS Atlanta District Office  
Martin Luther King, Jr., Federal Building  
77 Forsyth Street SW  
Atlanta, GA 30303

USCIS Charleston Satellite Office  
170 Meeting Street, Fifth Floor  
Charleston, SC 29401

**SOUTH DAKOTA**

USCIS St. Paul District Office  
2901 Metro Drive, Suite 100  
Bloomington, MN 55425

**TENNESSEE**

USCIS New Orleans District Office  
701 Loyola Avenue  
New Orleans, LA 70113

USCIS Memphis Suboffice  
Suite 100  
1341 Sycamore View Road  
Memphis, TN 38134

**TEXAS**

USCIS Dallas District Office  
8101 North Stemmons Freeway  
Dallas, TX 75247

USCIS El Paso District Office  
1545 Hawkins Boulevard, Suite 167  
El Paso, TX 79925

USCIS Harlingen District Office  
1717 Zoy Street  
Harlingen, TX 78552

USCIS Houston District Office  
126 Northpoint  
Houston, TX 77060

USCIS San Antonio District Office  
8940 Fourwinds Drive  
San Antonio, TX 78239

**UTAH**

USCIS Denver District Office  
4730 Paris Street  
Denver, CO 80239

USCIS Salt Lake City Suboffice  
5272 South College Drive, #100  
Murray, UT 84123

**VERMONT**

USCIS Portland District Office  
176 Gannett Drive  
South Portland, ME 04106

USCIS St. Albans Suboffice  
64 Gricebrook Road  
St. Albans, VT 05478

**VIRGIN ISLANDS**

USCIS San Juan District Office  
San Patricio Office Center  
7 Tabonuco Street, Suite 100  
Guaynabo, PR 00968

USCIS Charlotte Amalie Suboffice  
Nisky Center, Suite 1A  
First Floor South  
Charlotte Amalie, St. Thomas  
U.S. Virgin Islands 00802

San Croix Suboffice  
Sunny Isle Shopping Center  
Christiansted, St. Croix  
U.S. Virgin Islands 00820

**VIRGINIA**

USCIS Washington District Office  
4420 N. Fairfax Drive  
Arlington, VA 22203

USCIS Norfolk Suboffice  
5280 Henneman Drive  
Norfolk, VA 23513

**WASHINGTON**

USCIS Seattle District Office  
815 Airport Way South  
Seattle, WA 98134

USCIS Spokane Suboffice  
U.S. Courthouse  
920 W. Riverside, Room 691  
Spokane, WA 99201

USCIS Yakima Suboffice  
415 North 3rd Street  
Yakima, WA 98901

**WEST VIRGINIA**

USCIS Philadelphia District Office  
1600 Callowhill Street  
Philadelphia, PA 19130

USCIS West Virginia Satellite Office  
210 Kanawha Boulevard West  
Charleston, WV 25302

USCIS Pittsburgh Suboffice  
1000 Liberty Avenue  
Federal Building, Room 314  
Pittsburgh, PA 15222-4181

**WISCONSIN**

USCIS Chicago District Office  
10 West Jackson Boulevard  
Chicago, IL 60604

USCIS Milwaukee Suboffice  
310 E. Knapp Street  
Milwaukee, WI 53202

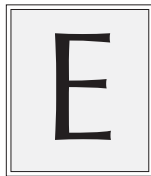
**WYOMING**

USCIS Denver District Office  
4730 Paris Street  
Denver, CO 80239





APPENDIX



## Instructional Publications

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Form M-378, U.S. Immigration & Naturalization Service .....	E/2
DSL 1083, Immigrant Visa Supplemental Information Sheet (U.S. Consulate in Mexico version) .....	E/3

# U. S. IMMIGRATION & NATURALIZATION SERVICE

## COLOR PHOTOGRAPH SPECIFICATIONS



IDEAL PHOTOGRAPH

IMAGE MUST FIT INSIDE THIS  
BOX >



THE PICTURE AT LEFT IS IDEAL SIZE, COLOR, BACKGROUND, AND POSE. THE IMAGE SHOULD BE 30MM (1 3/16IN) FROM THE HAIR TO JUST BELOW THE CHIN, AND 26MM (1 IN) FROM LEFT CHEEK TO RIGHT EAR. THE IMAGE MUST FIT IN THE BOX AT RIGHT.

### THE PHOTOGRAPH

\* THE OVERALL SIZE OF THE PICTURE, INCLUDING THE BACKGROUND, MUST BE AT LEAST 40MM (1 9/16 INCHES) IN HEIGHT BY 35MM (1 3/8IN) IN WIDTH.

\* PHOTOS MUST BE FREE OF SHADOWS AND CONTAIN NO MARKS, SPLOTCHES, OR DISCOLORATIONS.

\* PHOTOS SHOULD BE HIGH QUALITY, WITH GOOD BACK LIGHTING OR WRAP AROUND LIGHTING, AND MUST HAVE A WHITE OR OFF-WHITE BACKGROUND.

\* PHOTOS MUST BE A GLOSSY OR MATTE FINISH AND UN-RETOUCHED.

\* POLAROID FILM HYBRID #5 IS ACCEPTABLE; HOWEVER SX-70 TYPE FILM OR ANY OTHER INSTANT PROCESSING TYPE FILM IS UNACCEPTABLE. NON-PEEL APART FILMS ARE EASILY RECOGNIZED BECAUSE THE BACK OF THE FILM IS BLACK. ACCEPTABLE INSTANT COLOR FILM HAS A GRAY-TONED BACKING.

### THE IMAGE OF THE PERSON

\* THE DIMENSIONS OF THE IMAGE SHOULD BE 30MM (1 3/16 INCHES) FROM THE HAIR TO THE NECK JUST BELOW THE CHIN, AND 26MM (1 INCH) FROM THE RIGHT EAR TO THE LEFT CHEEK. IMAGE CANNOT EXCEED 32MM BY 28MM (1 1/4IN X 1 1/16IN).

\* IF THE IMAGE AREA ON THE PHOTOGRAPH IS TOO LARGE OR TOO SMALL, THE PHOTO CANNOT BE USED.

\* PHOTOGRAPHS MUST SHOW THE ENTIRE FACE OF THE PERSON IN A 3/4 VIEW SHOWING THE RIGHT EAR AND LEFT EYE.

\* FACIAL FEATURES **MUST BE IDENTIFIABLE.**

\* CONTRAST BETWEEN THE IMAGE AND BACKGROUND IS ESSENTIAL. PHOTOS FOR VERY LIGHT SKINNED PEOPLE SHOULD BE SLIGHTLY UNDER-EXPOSED. PHOTOS FOR VERY DARK SKINNED PEOPLE SHOULD BE SLIGHTLY OVER-EXPOSED.

### SAMPLES OF UNACCEPTABLE PHOTOGRAPHS



INCORRECT POSE



IMAGE TOO LARGE



IMAGE TOO SMALL

IMAGE TOO DARK  
UNDER-EXPOSED

IMAGE TOO LIGHT



DARK BACKGROUND



OVER-EXPOSED



SHADOWS ON PIC





### IMMIGRANT VISAS

AMERICAN CONSULATE GENERAL, AVE. LOPEZ MATEOS #924 NTE.

CD. JUAREZ, CHIHUAHUA, MEXICO

TEL. 1-900-225-5520 USA, CHARGE OF US\$1.00 (ONE DOLLAR) PER MINUTE.

TEL. 01-900-849-7474 MEX, CHARGE OF MEX\$10.00 (PESOS) PER MINUTE.

### IMMIGRANT VISA SUPPLEMENTAL INFORMATION SHEET

#### POLICE CERTIFICATES

Police certificates are required from every visa applicant aged 16 years or over for each locality of the country of the applicant's nationality or current residence where the applicant has resided for at least six months since attaining the age of sixteen. Police certificates are also required from all other countries where the applicant has resided for at least one year. Generally, application for such certificates should be made directly to police authorities in the district in which you resided. If you have any questions about where or how to apply for police certificates in other countries, you may communicate directly with the U.S. consular office processing your visa applications.

**Do not** attempt to obtain police certificates covering residence in any of the following countries, as they are **not** available:

Afghanistan*	Ghana	Malaysia*	Sudan
Angola*	Guatemala*	Mexico	Syria*
Azerbaijan*	Haiti*	Mongolia	Tajikistan
Bangladesh*	Honduras*	Nepal*	Thailand*
Bulgaria*	Indonesia	Nicaragua*	Turkey*
Cambodia*	Iran*	Pakistan*	United States of America
Chad*	Iraq*	Saudi Arabia*	Uzbekistan*
Colombia*	Kazakhstan	Sierra Leone	Venezuela*
Costa Rica*	Laos*	Somalia*	Vietnam*
Equatorial Guinea*	Libya	Sri Lanka	

Police certificates from these countries are available only to persons physically present in the country who apply in person.

Belarus	Comoros	Kuwait*	Rwanda*
Brazil	Cuba*	Lebanon*	Suriname
Chile	Ethiopia	Paraguay	Ukraine

Police Certificates from the following countries are available only through the United States Embassy or Consulate.

Contact the American Consular Office if you currently are, or have been a resident of one of these countries

Bermuda	Brunel	Korea*	Netherlands*
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#### MILITARY RECORDS

Military records from the following countries and those above countries marked with an asterisk (\*) are not available

Bahamas	Lesotho	Poland	Swaziland
Bolivia	Luxembourg	San Marino	Taiwan
Canary Islands	Macedonia	Serbia-Montenegro	Tanzania
Djibouti	Marshall Islands	Solomon Islands	Turkmenistan
Dominica	Monaco	St. Helena	Turks & Caicos Islands
Grenada	Norway	St. Kitts & Nevis	Tuvalu
Hong Kong	Panama	Saint Lucia	Western Samoa
Iceland	Peru	St. Vincent & The Grenadines	Democratic Republic of Congo

**MARRIAGE**

If your status as an intending immigrant depends upon a relationship established by a marriage between an alien and a United States citizen or legal permanent resident, please be prepared to present suitable documentation to establish the bona-fides of that marriage at the time of your immigrant visa interview.

The following types of documentation have proven helpful in adjudication of visa cases involving marriages. The type of documentation you present will depend on your particular circumstances. Failure to present satisfactory documentation may delay issuance of your immigrant visa.

- Receipts showing joint obligations for housing and living expenses, such as rent, utilities, telephone, and so forth;
- Mortgages, leases, credit accounts, or other financial obligations undertaken jointly;
- Evidence of joint ownership of property;
- Evidence of joint management of finances, such as joint bank accounts, insurance policies, retirement plans;
- Phone bill, photos, and correspondence between the married couple, dating from before and during the marriage;
- Correspondence to both spouses from family members;
- Evidence that those who know the parties recognize them as a married couple, such as invitations, cards, correspondence, and so forth;
- Tax returns from past years showing joint filing;
- Any other documentation or evidence would be suitable which shows that the parties to the marriage have formed a genuine economic and marital union.

**EMPLOYMENT**

If your entitlement to immigrant status is based on an employment-based petition or an offer of employment, you must obtain from your employer in the United States a written statement confirming that the employment offered you is still available. The statement should be on the stationery of the employer's business organization and must be notarized. This statement must be presented at the time of your immigrant visa interview.

**COLOR PHOTOGRAPHS SPECIFICATIONS**

- Four (4) color photographs of each applicant, regardless of age, with white background on glossy paper, unretouched, and unmounted.
- Photographs must show the subject in a \* frontal portrait with right side of the face.
- Unless the applicant wears a head covering required by religion, the right ear (without earring) must be exposed, and head covering must not be worn.
- Photograph outer dimension must be larger than 1 3/8" x 1 5/8" (35mm x 40mm), but head size (including hair) must fit within the 1" x 1 1/4" (26mm x 30mm).
- Photographic image must be sharp and correctly exposed, must be taken within thirty (30) days of application date.
- Using felt pen to avoid mutilation of the photographs, lightly print the name of the subject on the back of all photos.



## How to Use the CD-ROM

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A. Installing the Form and Checklist Files Onto Your Computer .....	F/2
1. Windows 9x, 2000, Me, and XP Users .....	F/2
2. Macintosh Users .....	F/2
B. Using State Department and USCIS Forms .....	F/2
Step 1: Opening a Form .....	F/3
Step 2: Filling in a Form .....	F/3
Step 3: Printing a Form .....	F/4
C. Using the Checklists .....	F/4

This CD-ROM, which can be used with Windows computers, installs forms and checklists that can be viewed only with Adobe Acrobat Reader 4.0 or higher. You can install Acrobat Reader from the Forms CD (see Section B below). Some of the forms have “fill-in” text fields and can be completed using your computer. You will not, however, be able to save the completed forms with the filled-in data. PDF forms and checklists without fill-in text fields must be printed out and filled in by hand or with a typewriter. (See Appendix G for a list of forms and their file names; see Appendix H for a list of checklists and their file names.) This CD-ROM is not a stand-alone software program. Please read this appendix and the README.TXT file included on the CD-ROM for instructions on using the Forms CD.

**Note to Mac users:** This CD-ROM and its files should also work on Macintosh computers. Please note, however, that Nolo cannot provide technical support for non-Windows users.

### How to View the README File

If you do not know how to view the file README.TXT, insert the Forms CD-ROM into your computer's CD-ROM drive and follow these instructions:

- Windows 9x, 2000, Me, and XP: (1) On your PC's desktop, double click the My Computer icon; (2) double click the icon for the CD-ROM drive into which the Forms CD-ROM was inserted; (3) double click the file README.TXT.
- Macintosh: (1) On your Mac desktop, double click the icon for the CD-ROM that you inserted; (2) double click on the file README.TXT.

While the README file is open, print it out by using the Print command in the File menu.

## A. Installing the Form and Checklist Files Onto Your Computer

Before you can do anything with the files on the CD-ROM, you need to install them onto your hard disk. In accordance with U.S. copyright laws, remember that copies of the CD-ROM and its files are for your personal use only.

Insert the Forms CD and do the following:

### 1. Windows 9x, 2000, Me, and XP Users

Follow the instructions that appear on the screen. (If nothing happens when you insert the Forms CD-ROM, then (1) double click the My Computer icon; (2) double click the icon for the CD-ROM drive into which the Forms CD-ROM was inserted; and (3) double click the file WELCOME.EXE.)

By default, all the files are installed to the \Immigration Forms folder in the \Program Files folder of your computer. A folder called “Immigration Forms” is added to the “Programs” folder of the Start menu.

### 2. Macintosh Users

**Step 1:** If the “Immigration Forms CD” window is not open, open it by double clicking the “Immigration Forms CD” icon.

**Step 2:** Select the “Immigration Forms” folder icon.

**Step 3:** Drag and drop the folder icon onto the icon of your hard disk.

## B. Using State Department and USCIS Forms

Electronic copies of useful forms from the State Department and USCIS are included on the CD-ROM in Adobe Acrobat PDF format. You must

have the Adobe Acrobat Reader installed on your computer (see below) to use these forms. All forms, their file names, and file formats are listed in Appendix G. These forms were not created by Nolo.

Some of these forms have fill-in text fields. To create your document using these files, you must: (1) open a file; (2) fill-in the text fields using either your mouse or the tab key on your keyboard to navigate from field to field; and (3) print it out.

NOTE: While you can print out your completed form, you will NOT be able to save your completed form to disk.

Forms without fill-in text fields cannot be filled out using your computer. To create your document using these files, you must: (1) open the file; (2) print it out; and (3) complete it by hand or typewriter.

### Installing Acrobat Reader

To install the Adobe Acrobat Reader, insert the CD into your computer's CD-ROM drive and follow these instructions:

- Windows 9x, 2000, Me, and XP: Follow the instructions that appear on screen. (If nothing happens when you insert the Forms CD-ROM, then (1) double click the My Computer icon; (2) double click the icon for the CD-ROM drive into which the Forms CD-ROM was inserted; and (3) double click the file WELCOME.EXE.)
- Macintosh: (1) If the "Immigration Forms CD" window is not open, open it by double clicking the "Immigration Forms CD" icon; and (2) double click on the "Acrobat Reader Installer" icon.

If you do not know how to use Adobe Acrobat Reader to view and print the files, you will need to consult the online documentation that comes with the Acrobat Reader program.

Do *not* call Nolo technical support if you have questions on how to use Acrobat Reader.

### Step 1: Opening a Form

PDF files, like the word processing files, can be opened one of three ways.

- Windows users can open a file by selecting its "shortcut" as follows: (1) Click the Windows "Start" button; (2) open the "Programs" folder; (3) open the "Immigration Forms" subfolder; and (4) click on the shortcut to the form you want to work with.
- Both Windows and Macintosh users can open a file directly by double clicking on it. Use My Computer or Windows Explorer (Windows 9x, 2000, Me, or XP) or the Finder (Macintosh) to go to the folder you created and copied the CD-ROM's files to. Then, double click on the specific file you want to open.
- You can also open a PDF file from within Acrobat Reader. To do this, you must first start Reader. Then, go to the File menu and choose the Open command. This opens a dialogue box where you will tell the program the location and name of the file (you will need to navigate through the directory tree to get to the folder on your hard disk where the CD's files have been installed). If these directions are unclear you will need to look through Acrobat Reader's help—Nolo's technical support department will *not* be able to help you with the use of Acrobat Reader.

### Step 2: Filling in a Form

Use your mouse or the Tab key on your keyboard to navigate from field to field within these forms. Be sure to have all the information you will need to complete a form on hand, because you will not be able to save a copy of the filled-in form to disk. You can, however, print out a completed version.

NOTE: This step is applicable only to forms that have been created with fill-in text fields. Forms without fill-in fields must be completed by hand or typewriter after you have printed them out.



### Where Are the PDF Files Installed?

- Windows Users: PDF files are installed by default to a folder named \Immigration Forms in the \Program Files folder of your computer.
- Macintosh Users: PDF files are located in the "Immigration Forms" folder.

### Step 3: Printing a Form

Choose Print from the Acrobat Reader File menu. This will open the Print dialogue box. In the "Print Range" section of the Print dialogue box, select the appropriate print range, then click OK.

## C. Using the Checklists

Electronic copies of the checklists in Appendix H are included on the CD-ROM in Adobe Acrobat PDF format. You must have the Adobe Acrobat Reader installed on your computer (see above) to use these forms.

The PDF files cannot be filled out using your computer. To complete your document using one of these files, you must first print it out, and then complete it by hand or typewriter.

To view a checklist file, please follow the instructions in Section B, Step 1, above. ■



## Tear-Out Immigration Forms

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Form No.	Form Name	File Name
DS-156	Nonimmigrant Visa Application*	DS156.PDF
DS-156K	Nonimmigrant Fiancé(e) Visa Application*	DS156K.PDF
DS-230	Application for Immigrant Visa and Alien Registration; Part I, Biographic Data and Part II, Sworn Statement*	DS230.PDF
DS-3032	Choice of Address and Agent*	DS3032.PDF
G-325A	Biographic Information*	G-325A.PDF
I-90	Application to Replace Permanent Resident Card*	I-90.PDF
I-129F	Petition for Alien Fiancé(e)*	I-129F.PDF
I-130	Petition for Alien Relative	I-130.PDF
I-131	Application for Travel Document* Attachment to Form I-131	I-131.PDF I-131ATTACH.PDF
I-134	Affidavit of Support*	I-134.PDF
I-485	Application to Register Permanent Resident or Adjust Status	I-485.PDF
I-485 Supp. A	Supplement A to Form I-485	I-485SUPA.PDF
I-693	Medical Examination of Aliens Seeking Adjustment of Status	I-693.PDF
I-751	Petition to Remove the Conditions on Residence*	I-751.PDF
I-765	Application for Employment Authorization*	I-765.PDF
I-847	Report of Complaint	I-847.PDF
I-864	Affidavit of Support Under Section 213A of the Act	I-864.PDF
I-864A	Contract Between Sponsor and Household Member	I-864A.PDF
OF-169	Instructions for Immigrant Visa Applicants*	OF169.PDF
WR-702	Processing Sheet for Form I-485	WR-702.PDF

\* Forms can be filled in using your computer. See Appendix F for instructions.





U.S. Department of State  
**NONIMMIGRANT VISA APPLICATION**

Approved OMB 1405-0018  
Expires 08/31/2004  
Estimated Burden 1 hour  
See Page 2

PLEASE TYPE OR PRINT YOUR ANSWERS IN THE SPACE PROVIDED BELOW EACH ITEM					
1. Passport Number		2. Place of Issuance: City		Country	State/Province
3. Issuing Country		4. Issuance Date (dd-mmm-yyyy)		5. Expiration Date (dd-mmm-yyyy)	
6. Surnames (As in Passport)					<b>DO NOT WRITE IN THIS SPACE</b> B-1/B-2 MAX    B-1 MAX    B-2 MAX Other _____ MAX Visa Classification _____ Mult or _____ Number of Applications _____ Months _____ Validity _____ Issued/Refused _____ On _____ By _____ Under SEC.    214(b)    221(g) Other _____ INA Reviewed By _____
7. First and Middle Names (As in Passport)					
8. Other Surnames Used (Maiden, Religious, Professional, Aliases)					
9. Other First and Middle Names Used			10. Date of Birth (dd-mmm-yyyy)		
11. Place of Birth: City		Country	State/Province		
12. Nationality					
13. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	14. National Identification Number (If applicable)		15. Home Address (Include apartment number, street, city, state or province, postal zone and country)		
16. Home Telephone Number		Business Phone Number		Mobile/Cell Number	
Fax Number		Business Fax Number		Pager Number	
17. Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Single (Never Married) <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input type="checkbox"/> Separated		18. Spouse's Full Name (Even if divorced or separated. Include maiden name.)		19. Spouse's DOB (dd-mmm-yyyy)	
20. Name and Address of Present Employer or School Name: _____ Address: _____					
21. Present Occupation (If retired, write "retired". If student, write "student".)		22. When Do You Intend To Arrive In The U.S.? (Provide specific date if known)		23. E-Mail Address	
24. At What Address Will You Stay in The U.S.?				<b>BARCODE</b>  <b>DO NOT WRITE IN THIS SPACE</b>  50 mm x 50 mm  PHOTO  staple or glue photo here	
25. Name and Telephone Numbers of Person in U.S. Who You Will Be Staying With or Visiting for Tourism or Business					
Name		Home Phone			
Business Phone		Cell Phone			
26. How Long Do You Intend To Stay in The U.S.?		27. What is The Purpose of Your Trip?			
28. Who Will Pay For Your Trip?		29. Have You Ever Been in The U.S.? <input type="checkbox"/> Yes <input type="checkbox"/> No  WHEN? _____  FOR HOW LONG? _____			



30. Have You Ever Been Issued a U.S. Visa? <input type="checkbox"/> Yes <input type="checkbox"/> No WHEN? _____ WHERE? _____ WHAT TYPE OF VISA? _____	31. Have You Ever Been Refused a U.S. Visa? <input type="checkbox"/> Yes <input type="checkbox"/> No WHEN? _____ WHERE? _____ WHAT TYPE OF VISA? _____
32. Do You Intend To Work in The U.S.? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If YES, give the name and complete address of U.S. employer.)</i>	33. Do You Intend To Study in The U.S.? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If YES, give the name and complete address of the school.)</i>
34. Names and Relationships of Persons Traveling With You	
35. Has Your U.S. Visa Ever Been Cancelled or Revoked? <input type="checkbox"/> Yes <input type="checkbox"/> No	36. Has Anyone Ever Filed an Immigrant Visa Petition on Your Behalf? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, Who? _____
37. Are Any of The Following Persons in The U.S., or Do They Have U.S. Legal Permanent Residence or U.S. Citizenship? Mark YES or NO and indicate that person's status in the U.S. (i.e., U.S. legal permanent resident, U.S. citizen, visiting, studying, working, etc.).	
<input type="checkbox"/> YES <input type="checkbox"/> NO Husband/ Wife _____	<input type="checkbox"/> YES <input type="checkbox"/> NO Fiance/ Fiancee _____
<input type="checkbox"/> YES <input type="checkbox"/> NO Father/ Mother _____	<input type="checkbox"/> YES <input type="checkbox"/> NO Son/ Daughter _____
<input type="checkbox"/> YES <input type="checkbox"/> NO Brother/ Sister _____	
38. IMPORTANT: ALL APPLICANTS MUST READ AND CHECK THE APPROPRIATE BOX FOR EACH ITEM. A visa may not be issued to persons who are within specific categories defined by law as inadmissible to the United States (except when a waiver is obtained in advance). Is any of the following applicable to you?	
<ul style="list-style-type: none"> <li>● Have you ever been arrested or convicted for any offense or crime, even though subject of a pardon, amnesty or other similar legal action? Have you ever unlawfully distributed or sold a controlled substance (drug), or been a prostitute or procurer for prostitutes? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></li> <li>● Have you ever been refused admission to the U.S., or been the subject of a deportation hearing, or sought to obtain or assist others to obtain a visa, entry into the U.S., or any other U.S. immigration benefit by fraud or willful misrepresentation or other unlawful means? Have you attended a U.S. public elementary school on student (F) status or a public secondary school after November 30, 1996 without reimbursing the school? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></li> <li>● Do you seek to enter the United States to engage in export control violations, subversive or terrorist activities, or any other unlawful purpose? Are you a member or representative of a terrorist organization as currently designated by the U.S. Secretary of State? Have you ever participated in persecutions directed by the Nazi government of Germany; or have you ever participated in genocide? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></li> <li>● Have you ever violated the terms of a U.S. visa, or been unlawfully present in, or deported from, the United States? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></li> <li>● Have you ever withheld custody of a U.S. citizen child outside the United States from a person granted legal custody by a U.S. court, voted in the United States in violation of any law or regulation, or renounced U.S. citizenship for the purpose of avoiding taxation? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></li> <li>● Have you ever been afflicted with a communicable disease of public health significance or a dangerous physical or mental disorder, or ever been a drug abuser or addict? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span></li> </ul>	
While a YES answer does not automatically signify ineligibility for a visa, if you answered YES you may be required to personally appear before a consular officer.	
39. Was this Application Prepared by Another Person on Your Behalf? (If answer is YES, then have that person complete item 40.) <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>	
40. Application Prepared By: NAME: _____ Relationship to Applicant: _____ ADDRESS: _____ Signature of Person Preparing Form: _____ DATE (dd-mmm-yyyy) _____	
41. I certify that I have read and understood all the questions set forth in this application and the answers I have furnished on this form are true and correct to the best of my knowledge and belief. I understand that any false or misleading statement may result in the permanent refusal of a visa or denial of entry into the United States. I understand that possession of a visa does not automatically entitle the bearer to enter the United States of America upon arrival at a port of entry if he or she is found inadmissible.	
APPLICANT'S SIGNATURE _____ DATE (dd-mmm-yyyy) _____	
<p style="text-align: center;"><b>Privacy Act and Paperwork Reduction Act Statements</b></p> <p>INA Section 222(f) provides that visa issuance and refusal records shall be considered confidential and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States. Certified copies of visa records may be made available to a court which certifies that the information contained in such records is needed in a case pending before the court.</p> <p>Public reporting burden for this collection of information is estimated to average 1 hour per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. You do not have to provide the information unless this collection displays a currently valid OMB number. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: U.S. Department of State, A/RPS/DIR, Washington, DC 20520.</p>	





U.S. Department of State  
**NONIMMIGRANT FIANCÉ(E) VISA APPLICATION**

USE WITH FORM DS-156

OMB APPROVAL NO.1405-0096  
EXPIRES: 05/31/2004  
ESTIMATED BURDEN: 1 HOUR\*

The following questions must be answered by all applicants for visas to enter the United States as the fiancée or fiancé of a U.S. citizen in order that a determination may be made as to visa eligibility.

This form, together with Form DS-156, Nonimmigrant Visa Application, completed in duplicate, constitutes the complete application for a "K" Fiancé(e) Nonimmigrant Visa authorized under Section 222(c) of the Immigration and Nationality Act.

1. FAMILY NAME		FIRST NAME	MIDDLE NAME
2. DATE OF BIRTH (mm-dd-yyyy)		3. PLACE OF BIRTH (City, Province, Country)	

4. MARITAL STATUS  
If you are now married or were previously married, answer the following:

a. Name of spouse: \_\_\_\_\_

b. Date (mm-dd-yyyy) and place of marriage: \_\_\_\_\_

c. How and when was marriage terminated: \_\_\_\_\_

d. If presently married, how will you marry your U.S. citizen fiancé(e)? Explain:\*

\* NOTE: If presently married to anyone, you are **not** eligible for a fiancé(e) visa.

5. LIST NAME, DATE AND PLACE OF BIRTH OF ALL UNMARRIED CHILDREN UNDER 21 YEARS OF AGE			WILL ACCOMPANY YOU		WILL FOLLOW YOU	
NAME	BIRTH DATE (mm-dd-yyyy)	BIRTH PLACE	YES	NO	YES	NO
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- THE FOLLOWING DOCUMENTS MUST BE ATTACHED IN ORDER TO APPLY FOR A FIANCÉ(E) NONIMMIGRANT VISA**
- Your birth certificate
  - Birth certificates of all children listed in No. 5
  - Death certificate of spouse (if any)
  - Marriage certificate (if any)
  - Divorce decree (if any)
  - Police certificates
  - Evidence of engagement to your fiancé(e)
  - Evidence of financial support

NOTE: All of the above documents will also be required by the Immigration and Naturalization Service (INS) when you apply for adjustment of status to lawful permanent resident. The INS will accept these documents for that purpose.

**DO NOT WRITE BELOW THIS LINE**  
**The consular officer will assist you in answering this part.**

I understand that I am required to submit my visa to the United States Immigration Officer at the place where I apply to enter the United States, and that the possession of a visa does not entitle me to enter the United States if at that time I am found to be inadmissible under the immigration laws. I further understand that my adjustment of status to permanent resident alien is dependent upon marriage to a U.S. citizen and upon meeting all of the requirements of the Immigration and Naturalization Service.

I understand that any willfully false or misleading statement or willful concealment of a material fact made by me herein may subject me to permanent exclusion from the United States and, if I am admitted to the United States, may subject me to criminal prosecution and/or deportation.

I hereby certify that I am legally free to marry and intend to marry \_\_\_\_\_, a U.S. citizen, within 90 days of my admission into the United States.

I do solemnly swear or affirm that all statements which appear in this application have been made by me and are true and complete to the best of my knowledge and

\_\_\_\_\_  
Signature of Applicant

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at: \_\_\_\_\_

\_\_\_\_\_  
United States Consular Officer

\*Public reporting burden for this collection of information is estimated to average 1 hour per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. In accordance with 5 CFR 1320 5(b), persons are not required to respond to the collection of this information unless this form displays a currently valid OMB control number. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: U.S. Department of State (A/RPS/DIR) Washington, D.C. 20520.





U.S. Department of State  
**APPLICATION FOR IMMIGRANT VISA AND  
ALIEN REGISTRATION**

OMB APPROVAL NO. 1405-0015  
EXPIRES: 05/31/2004  
ESTIMATED BURDEN: 1 HOUR\*  
(See Page 2)

**PART I - BIOGRAPHIC DATA**

**INSTRUCTIONS:** Complete one copy of this form for yourself and each member of your family, regardless of age, who will immigrate with you. Please print or type your answers to all questions. Mark questions that are Not Applicable with "N/A". If there is insufficient room on the form, answer on a separate sheet using the same numbers that appear on the form. Attach any additional sheets to this form.

**WARNING:** Any false statement or concealment of a material fact may result in your permanent exclusion from the United States.

This form (DS-230 PART I) is the first of two parts. This part, together with Form DS-230 PART II, constitutes the complete Application for Immigrant Visa and Alien Registration.

1. Family Name		First Name		Middle Name	
2. Other Names Used or Aliases (If married woman, give maiden name)					
3. Full Name in Native Alphabet (If Roman letters not used)					
4. Date of Birth (mm-dd-yyyy)	5. Age	6. Place of Birth (City or town) (Province) (Country)			
7. Nationality (If dual national, give both)	8. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	9. Marital Status <input type="checkbox"/> Single (Never married) <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input type="checkbox"/> Separated Including my present marriage, I have been married _____ times.			
10. Permanent address in the United States where you intend to live, if known (street address including zip code). Include the name of a person who currently lives there.		11. Address in the United States where you want your Permanent Resident Card (Green Card) mailed, if different from address in item #10 (include the name of a person who currently lives there).			
Telephone number:		Telephone number:			
12. Your Present Occupation		13. Present Address (Street Address) (City or Town) (Province) (Country)  Telephone number: Home Office			
14. Name of Spouse (Maiden or family name)		First Name		Middle Name	
Date (mm-dd-yyyy) and place of birth of spouse: Address of spouse (If different from your own):  Spouse's occupation: Date of marriage (mm-dd-yyyy):					
15. Father's Family Name		First Name		Middle Name	
16. Father's Date of Birth (mm-dd-yyyy)	Place of Birth	Current Address		If deceased, give year of death	
17. Mother's Family Name at Birth		First Name		Middle Name	
18. Mother's Date of Birth (mm-dd-yyyy)	Place of Birth	Current Address		If deceased, give year of death	

19. List Names, Dates and Places of Birth, and Addresses of ALL Children.			
NAME	DATE (mm-dd-yyyy)	PLACE OF BIRTH	ADDRESS (If different from your own)

20. List below all places you have lived for at least six months since reaching the age of 16, including places in your country of nationality. Begin with your present residence.			
CITY OR TOWN	PROVINCE	COUNTRY	FROM/TO (mm-yyyy)

21a. Person(s) named in 14 and 19 who will accompany you to the United States now.

21b. Person(s) named in 14 and 19 who will follow you to the United States at a later date.

22. List below all employment for the last ten years.			
EMPLOYER	LOCATION	JOB TITLE	FROM/TO (mm-yyyy)

In what occupation do you intend to work in the United States?

23. List below all educational institutions attended.			
SCHOOL AND LOCATION	FROM/TO (mm-yyyy)	COURSE OF STUDY	DEGREE OR DIPLOMA

Languages spoken or read:

Professional associations to which you belong:

24. Previous Military Service		<input type="checkbox"/> Yes <input type="checkbox"/> No
Branch: _____ Dates (mm-dd-yyyy) of Service: _____		
Rank/Position: _____ Military Speciality/Occupation: _____		

25. List dates of all previous visits to or residence in the United States. (If never, write "never") Give type of visa status, if known. Give INS "A" number if any.			
FROM/TO (mm-yyyy)	LOCATION	TYPE OF VISA	"A" NO. (If known)

SIGNATURE OF APPLICANT	DATE (mm-dd-yyyy)
------------------------	-------------------

**Privacy Act and Paperwork Reduction Act Statements**

The information asked for on this form is requested pursuant to Section 222 of the Immigration and Nationality Act. The U.S. Department of State uses the facts you provide on this form primarily to determine your classification and eligibility for a U.S. immigrant visa. Individuals who fail to submit this form or who do not provide all the requested information may be denied a U.S. immigrant visa. If you are issued an immigrant visa and are subsequently admitted to the United States as an immigrant, the Immigration and Naturalization Service will use the information on this form to issue you a Permanent Resident Card, and, if you so indicate, the Social Security Administration will use the information to issue you a social security number and card.

\*Public reporting burden for this collection of information is estimated to average 1 hour per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. In accordance with 5 CFR 1320 5(b), persons are not required to respond to the collection of this information unless this form displays a currently valid OMB control number. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: U.S. Department of State (A/RPS/DIR) Washington, D.C. 20520.





U.S. Department of State  
**APPLICATION FOR IMMIGRANT VISA AND  
ALIEN REGISTRATION**

OMB APPROVAL NO. 1405-0015  
EXPIRES: 05/31/2004  
ESTIMATED BURDEN: 1 HOUR\*

**PART II - SWORN STATEMENT**

**INSTRUCTIONS:** Complete one copy of this form for yourself and each member of your family, regardless of age, who will immigrate with you. Please print or type your answers to all questions. Mark questions that are Not Applicable with "N/A". If there is insufficient room on the form, answer on a separate sheet using the same numbers that appear on the form. Attach any additional sheets to this form. The fee should be paid in United States dollars or local currency equivalent, or by bank draft.

**WARNING:** Any false statement or concealment of a material fact may result in your permanent exclusion from the United States. Even if you are issued an immigrant visa and are subsequently admitted to the United States, providing false information on this form could be grounds for your prosecution and/or deportation.

This form (DS-230 PART II), together with Form DS-230 PART I, constitutes the complete Application for Immigrant Visa and Alien Registration.

26. Family Name	First Name	Middle Name
27. Other Names Used or Aliases ( <i>If married woman, give maiden name</i> )		
28. Full Name in Native Alphabet ( <i>If Roman letters not used</i> )		
29. Name and Address of Petitioner		
Telephone number:		
30. United States laws governing the issuance of visas require each applicant to state whether or not he or she is a member of any class of individuals excluded from admission into the United States. The excludable classes are described below in general terms. You should read carefully the following list and answer YES or NO to each category. The answers you give will assist the consular officer to reach a decision on your eligibility to receive a visa.		
<b>EXCEPT AS OTHERWISE PROVIDED BY LAW, ALIENS WITHIN THE FOLLOWING CLASSIFICATIONS ARE INELIGIBLE TO RECEIVE A VISA. DO ANY OF THE FOLLOWING CLASSES APPLY TO YOU?</b>		
a. An alien who has a communicable disease of public health significance; who has failed to present documentation of having received vaccinations in accordance with U.S. law; who has or has had a physical or mental disorder that poses or is likely to pose a threat to the safety		<input type="checkbox"/> Yes <input type="checkbox"/> No
b. An alien convicted of, or who admits having committed, a crime involving moral turpitude or violation of any law relating to a controlled substance or who is the spouse, son or daughter of such a trafficker who knowingly has benefited from the trafficking activities in the past five years; who has been convicted of 2 or more offenses for which the aggregate sentences were 5 years or more; who is coming to the United States to engage in prostitution or commercialized vice or who has engaged in prostitution or procuring within the past 10 years; who is or has been an illicit trafficker in any controlled substance; who has committed a serious criminal offense in the United States and who has asserted immunity from prosecution; who, while serving as a foreign government official and within the previous 24-month period, was responsible for or directly carried out particularly severe violations of religious freedom; or whom the President has identified as a person who plays a significant role in a severe form of trafficking in persons, who otherwise has knowingly aided, abetted, assisted or colluded with such a trafficker in severe forms of trafficking in persons, or who is the spouse, son or daughter of such a trafficker who knowingly has benefited from the trafficking activities within the past five years.		<input type="checkbox"/> Yes <input type="checkbox"/> No
c. An alien who seeks to enter the United States to engage in espionage, sabotage, export control violations, terrorist activities, the overthrow of the Government of the United States or other unlawful activity; who is a member of or affiliated with the Communist or other totalitarian party; who participated in Nazi persecutions or genocide; who has engaged in genocide; or who is a member or representative of a terrorist organization as currently designated by the U.S. Secretary of State.		<input type="checkbox"/> Yes <input type="checkbox"/> No
d. An alien who is likely to become a public charge.		<input type="checkbox"/> Yes <input type="checkbox"/> No
e. An alien who seeks to enter for the purpose of performing skilled or unskilled labor who has not been certified by the Secretary of Labor; who is a graduate of a foreign medical school seeking to perform medical services who has not passed the NBME exam or its equivalent; or who is a health care worker seeking to perform such work without a certificate from the CGFNS or from an equivalent approved independent credentialing organization.		<input type="checkbox"/> Yes <input type="checkbox"/> No
f. An alien who failed to attend a hearing on deportation or inadmissibility within the last 5 years; who seeks or has sought a visa, entry into the United States, or any immigration benefit by fraud or misrepresentation; who knowingly assisted any other alien to enter or try to enter the United States in violation of law; who, after November 30, 1996, attended in student (F) visa status a U.S. public elementary school or who attended a U.S. public secondary school without reimbursing the school; or who is subject to a civil penalty under INA 274C.		<input type="checkbox"/> Yes <input type="checkbox"/> No

**Privacy Act and Paperwork Reduction Act Statements**

The information asked for on this form is requested pursuant to Section 222 of the Immigration and Nationality Act. The U.S. Department of State uses the facts you provide on this form primarily to determine your classification and eligibility for a U.S. immigrant visa. Individuals who fail to submit this form or who do not provide all the requested information may be denied a U.S. immigrant visa. If you are issued an immigrant visa and are subsequently admitted to the United States as an immigrant, the Immigration and Naturalization Service will use the information on this form to issue you a Permanent Resident Card, and, if you so indicate, the Social Security Administration will use the information to issue you a social security number and card.

\*Public reporting burden for this collection of information is estimated to average 1 hour per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. In accordance with 5 CFR 1320 5(b), persons are not required to respond to the collection of this information unless this form displays a currently valid OMB control number. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: U.S. Department of State (A/RPS/DIR) Washington, D.C. 20520.



<p>g. An alien who is permanently ineligible for U.S. citizenship; or who departed the United States to evade military service in time of war.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>h. An alien who was previously ordered removed within the last 5 years or ordered removed a second time within the last 20 years; who was previously unlawfully present and ordered removed within the last 10 years or ordered removed a second time within the last 20 years; who was convicted of an aggravated felony and ordered removed; who was previously unlawfully present in the United States for more than 180 days but less than one year who voluntarily departed within the last 3 years; or who was unlawfully present for more than one year or an aggregate of one year within the last 10 years.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>i. An alien who is coming to the United States to practice polygamy; who withholds custody of a U.S. citizen child outside the United States from a person granted legal custody by a U.S. court or intentionally assists another person to do so; who has voted in the United States in</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>j. An alien who is a former exchange visitor who has not fulfilled the 2-year foreign residence requirement.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>k. An alien determined by the Attorney General to have knowingly made a frivolous application for asylum.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>l. An alien who has ordered, carried out or materially assisted in extrajudicial and political killings and other acts of violence against the Haitian people; who has directly or indirectly assisted or supported any of the groups in Colombia known as FARC, ELN, or AUC; who through abuse of a governmental or political position has converted for personal gain, confiscated or expropriated property in Cuba, a claim to which is owned by a national of the United States, has trafficked in such property or has been complicit in such conversion, has committed similar acts in another country, or is the spouse, minor child or agent of an alien who has committed such acts; who has been directly involved in the establishment or enforcement of population controls forcing a woman to undergo an abortion against her free choice or a man or a woman to undergo sterilization against his or her free choice; or who has disclosed or trafficked in confidential U.S. business information obtained in connection with U.S. participation in the Chemical Weapons Convention or is the spouse, minor child or agent of such a person.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>31. Have you ever been charged, arrested or convicted of any offense or crime? (If answer is Yes, please explain)</p>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>32. Have you ever been refused admission to the United States at a port-of-entry? (If answer is Yes, please explain)</p>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>33a. Have you ever applied for a Social Security Number (SSN)?</p> <p><input type="checkbox"/> Yes   Give the number _____   <input type="checkbox"/> No</p> <p>Do you want the Social Security Administration to assign you an SSN (and issue a card) or issue you a new card (if you have an SSN)? You must answer "Yes" to this question and to the "Consent To Disclosure" in order to receive an SSN and/or card.</p> <p style="text-align: center;"><input type="checkbox"/> Yes   <input type="checkbox"/> No</p>	<p>33b. CONSENT TO DISCLOSURE: I authorize disclosure of information from this form to the Immigration and Naturalization Service (INS), the Social Security Administration (SSA), such other U.S. Government agencies as may be required for the purpose of assigning me an SSN and issuing me a Social Security card, and I authorize the SSA to share my SSN with the INS.</p> <p style="text-align: right;"><input type="checkbox"/> Yes   <input type="checkbox"/> No</p> <p>The applicant's response does not limit or restrict the Government's ability to obtain his or her SSN, or other information on this form, for enforcement or other purposes as authorized by law.</p>
<p>34. WERE YOU ASSISTED IN COMPLETING THIS APPLICATION?   <input type="checkbox"/> Yes   <input type="checkbox"/> No</p> <p>(If answer is Yes, give name and address of person assisting you, indicating whether relative, friend, travel agent, attorney, or other)</p>	
<p><b>DO NOT WRITE BELOW THE FOLLOWING LINE</b>  <b>The consular officer will assist you in answering item 35.</b>  <b>DO NOT SIGN this form until instructed to do so by the consular officer</b></p>	
<p>35. I claim to be:</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p><input type="checkbox"/> A Family-Sponsored Immigrant</p> <p><input type="checkbox"/> An Employment-Based Immigrant</p> <p><input type="checkbox"/> A Diversity Immigrant</p> <p><input type="checkbox"/> A Special Category (<i>Specify</i>) _____ (Returning resident, Hong Kong, Tibetan, Private Legislation, etc.)</p> </div> <div style="width: 35%;"> <p><input type="checkbox"/> I derive foreign state chargeability under Sec. 202(b) through my _____</p> <p><input type="checkbox"/> Preference: _____</p> <p><input type="checkbox"/> Numerical limitation: _____ (foreign state)</p> </div> </div>	
<p>I understand that I am required to surrender my visa to the United States Immigration Officer at the place where I apply to enter the United States, and that the possession of a visa does not entitle me to enter the United States if at that time I am found to be inadmissible under the immigration laws.</p> <p>I understand that any willfully false or misleading statement or willful concealment of a material fact made by me herein may subject me to permanent exclusion from the United States and, if I am admitted to the United States, may subject me to criminal prosecution and/or deportation.</p> <p>I, the undersigned applicant for a United States immigrant visa, do solemnly swear (or affirm) that all statements which appear in this application, consisting of Form DS-230 Part I and Part II combined, have been made by me, including the answers to items 1 through 35 inclusive, and that they are true and complete to the best of my knowledge and belief. I do further swear (or affirm) that, if admitted into the United States, I will not engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States; in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activities subversive to the national security; in any activity a purpose of which is the opposition to or the control, or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means.</p> <p>I understand that completion of this form by persons required by law to register with the Selective Service System (males 18 through 25 years of age) constitutes such registration in accordance with the Military Selective Service Act.</p> <p>I understand all the foregoing statements, having asked for and obtained an explanation on every point which was not clear to me.</p>	
<p>_____ Signature of Applicant</p>	
<p>Subscribed and sworn to before me this _____ day of _____ at: _____</p>	
<p>_____ Consular Officer</p>	

Place Case Barcode Strip Here Before Mailing to the National Visa Center



U.S. Department of State  
**CHOICE OF ADDRESS AND AGENT**  
For Immigrant Visa Applicants

Print or type your full name

Check one box only to the left of the statement that is your choice.

- ☐ I appoint: \_\_\_\_\_  
as my agent or attorney to receive mail about my application. Mail from the U. S. Department of State concerning my immigrant visa application should be sent to:

\_\_\_\_\_  
Name of the person who will act as your agent or attorney for receipt of mail

\_\_\_\_\_  
Street address (where my agent or attorney will receive mail about my application)

\_\_\_\_\_  
City

\_\_\_\_\_  
State/Province

\_\_\_\_\_  
Postal Code

\_\_\_\_\_  
Country

- ☐ I do not appoint an agent or an attorney to receive mail about my application. Mail from the U.S. Department of State concerning my immigrant visa application should be sent to me at:

\_\_\_\_\_  
Street address (include "in care of" if needed)

\_\_\_\_\_  
City

\_\_\_\_\_  
State/Province

\_\_\_\_\_  
Postal Code

\_\_\_\_\_  
Country

- ☐ I have already legally immigrated to the U. S. and do not need to apply for an immigrant visa.
- ☐ I no longer wish to apply for an immigrant visa.

As proof of your choice, sign and date this document:

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date of Signature

**PAPERWORK REDUCTION ACT**

\*Public reporting burden for this collection of information is estimated to average 30 minutes per response. Persons are not required to provide this information in the absence of a valid OMB approval number. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: U.S. Department of State (A/RPS/DIR) Washington, DC 20520-1849.



(Family name)	(First name)	(Middle name)	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	BIRTHDATE (Mo.-Day-Yr.)	NATIONALITY	FILE NUMBER A-			
ALL OTHER NAMES USED (Including names by previous marriages)			CITY AND COUNTRY OF BIRTH		SOCIAL SECURITY NO. (If any)				
FATHER MOTHER (Maiden name)									
HUSBAND (If none, so state) OR WIFE	FAMILY NAME (For wife, give maiden name)	FIRST NAME	BIRTHDATE	CITY & COUNTRY OF BIRTH	DATE OF MARRIAGE	PLACE OF MARRIAGE			
FORMER HUSBANDS OR WIVES (If none, so state)									
FAMILY NAME (For wife, give maiden name)	FIRST NAME	BIRTHDATE	DATE & PLACE OF MARRIAGE		DATE AND PLACE OF TERMINATION OF MARRIAGE				
APPLICANT'S RESIDENCE LAST FIVE YEARS. LIST PRESENT ADDRESS FIRST					FROM		TO		
STREET AND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	MONTH	YEAR	MONTH	YEAR	
							PRESENT TIME		
APPLICANT'S LAST ADDRESS OUTSIDE THE UNITED STATES OF MORE THAN ONE YEAR					FROM		TO		
STREETAND NUMBER		CITY	PROVINCE OR STATE	COUNTRY	MONTH	YEAR	MONTH	YEAR	
APPLICANT'S EMPLOYMENT LAST FIVE YEARS. (IF NONE, SO STATE) LIST PRESENT EMPLOYMENT FIRST					FROM		TO		
FULL NAME AND ADDRESS OF EMPLOYER				OCCUPATION (SPECIFY)	MONTH	YEAR	MONTH	YEAR	
							PRESENT TIME		
Show below last occupation abroad if not shown above. (Include all information requested above.)									
THIS FORM IS SUBMITTED IN CONNECTION WITH APPLICATION FOR:				SIGNATURE OF APPLICANT					DATE
<input type="checkbox"/> NATURALIZATION <input type="checkbox"/> STATUS AS PERMANENT RESIDENT <input type="checkbox"/> OTHER (SPECIFY):									
Submit all four pages of this form.				If your native alphabet is other than roman letters, write your name in your native alphabet here:					

PENALTIES: SEVERE PENALTIES ARE PROVIDED BY LAW FOR KNOWINGLY AND WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT.

**APPLICANT:** BE SURE TO PUT YOUR NAME AND ALIEN REGISTRATION NUMBER IN THE BOX OUTLINED BY HEAVY BORDER BELOW.

COMPLETE THIS BOX (Family name)	(Given name)	(Middle name)	(Alien registration number)





(Family name)	(First name)	(Middle name)	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	BIRTHDATE (Mo.-Day-Yr.)	NATIONALITY	FILE NUMBER A-
ALL OTHER NAMES USED (Including names by previous marriages)			CITY AND COUNTRY OF BIRTH		SOCIAL SECURITY NO. (If any)	
FATHER MOTHER (Maiden name)						
HUSBAND (If none, so state) OR WIFE	FAMILY NAME (For wife, give maiden name)	FIRST NAME	BIRTHDATE	CITY & COUNTRY OF BIRTH	DATE OF MARRIAGE	PLACE OF MARRIAGE
FORMER HUSBANDS OR WIVES (if none, so state)						
FAMILY NAME (For wife, give maiden name)		FIRST NAME	BIRTHDATE	DATE & PLACE OF MARRIAGE	DATE AND PLACE OF TERMINATION OF MARRIAGE	
APPLICANT'S RESIDENCE LAST FIVE YEARS. LIST PRESENT ADDRESS FIRST						
STREET AND NUMBER				CITY	PROVINCE OR STATE	COUNTRY
APPLICANT'S LAST ADDRESS OUTSIDE THE UNITED STATES OF MORE THAN ONE YEAR						
STREETAND NUMBER				CITY	PROVINCE OR STATE	COUNTRY
APPLICANT'S EMPLOYMENT LAST FIVE YEARS. (IF NONE, SO STATE) LIST PRESENT EMPLOYMENT FIRST						
FULL NAME AND ADDRESS OF EMPLOYER				OCCUPATION (SPECIFY)	MONTH	YEAR
Show below last occupation abroad if not shown above. (Include all information requested above.)						
THIS FORM IS SUBMITTED IN CONNECTION WITH APPLICATION FOR:				SIGNATURE OF APPLICANT		
<input type="checkbox"/> NATURALIZATION <input type="checkbox"/> STATUS AS PERMANENT RESIDENT <input type="checkbox"/> OTHER (SPECIFY):				DATE		
Submit all four pages of this form.				If your native alphabet is other than roman letters, write your name in your native alphabet here:		

PENALTIES: SEVERE PENALTIES ARE PROVIDED BY LAW FOR KNOWINGLY AND WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT.

**APPLICANT:** BE SURE TO PUT YOUR NAME AND ALIEN REGISTRATION NUMBER IN THE BOX OUTLINED BY HEAVY BORDER BELOW.

COMPLETE THIS BOX (Family name)	(Given name)	(Middle name)	(Alien registration number)
<b>(OTHER AGENCY USE)</b>			<b>INS USE (Office of Origin)</b> OFFICE CODE: TYPE OF CASE: DATE:



PENALTIES: SEVERE PENALTIES ARE PROVIDED BY LAW FOR KNOWINGLY AND WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT.

**APPLICANT:** BE SURE TO PUT YOUR NAME AND ALIEN REGISTRATION NUMBER IN THE BOX OUTLINED BY HEAVY BORDER BELOW.

COMPLETE THIS BOX (Family name)				(Given name)				(Middle name)				(Alien registration number)			
(OTHER AGENCY USE)								INS USE (Office of Origin)  OFFICE CODE:  TYPE OF CASE:  DATE:							



(Family name)	(First name)	(Middle name)	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	BIRTHDATE (Mo.-Day-Yr.)	NATIONALITY	FILE NUMBER A-
ALL OTHER NAMES USED (Including names by previous marriages)			CITY AND COUNTRY OF BIRTH		SOCIAL SECURITY NO. (If any)	
FATHER MOTHER (Maiden name)						
HUSBAND (If none, so state) OR WIFE	FAMILY NAME (For wife, give maiden name)	FIRST NAME	BIRTHDATE	CITY & COUNTRY OF BIRTH	DATE OF MARRIAGE	PLACE OF MARRIAGE
FORMER HUSBANDS OR WIVES (if none, so state)						
FAMILY NAME (For wife, give maiden name)		FIRST NAME	BIRTHDATE	DATE & PLACE OF MARRIAGE	DATE AND PLACE OF TERMINATION OF MARRIAGE	
APPLICANT'S RESIDENCE LAST FIVE YEARS. LIST PRESENT ADDRESS FIRST						
STREET AND NUMBER				CITY	PROVINCE OR STATE	COUNTRY
APPLICANT'S LAST ADDRESS OUTSIDE THE UNITED STATES OF MORE THAN ONE YEAR						
STREETAND NUMBER				CITY	PROVINCE OR STATE	COUNTRY
APPLICANT'S EMPLOYMENT LAST FIVE YEARS. (IF NONE, SO STATE) LIST PRESENT EMPLOYMENT FIRST						
FULL NAME AND ADDRESS OF EMPLOYER				OCCUPATION (SPECIFY)	MONTH	YEAR
Show below last occupation abroad if not shown above. (Include all information requested above.)						
THIS FORM IS SUBMITTED IN CONNECTION WITH APPLICATION FOR:				SIGNATURE OF APPLICANT		
<input type="checkbox"/> NATURALIZATION <input type="checkbox"/> STATUS AS PERMANENT RESIDENT				DATE		
<input type="checkbox"/> OTHER (SPECIFY):						
Submit all four pages of this form.				If your native alphabet is other than roman letters, write your name in your native alphabet here:		

PENALTIES: SEVERE PENALTIES ARE PROVIDED BY LAW FOR KNOWINGLY AND WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT.

**APPLICANT:** BE SURE TO PUT YOUR NAME AND ALIEN REGISTRATION NUMBER IN THE BOX OUTLINED BY HEAVY BORDER BELOW.

COMPLETE THIS BOX (Family name)	(Given name)	(Middle name)	(Alien registration number)
(OTHER AGENCY USE)			INS USE (Office of Origin)
			OFFICE CODE:
			TYPE OF CASE:
			DATE:





# Application to Replace Permanent Resident Card

## INSTRUCTIONS

### Purpose of This Form.

This form is for permanent residents and conditional residents to apply to the Immigration and Naturalization Service (INS) for replacement of permanent resident cards. If you are a conditional resident and your status is expiring, use Form I-751 to apply for the removal of conditions.

### Who May File.

If you are a permanent resident or conditional resident, file this application:

- to replace a lost, stolen or destroyed card;
- to update a card after change of name or other biographic data;
- to replace a card that is mutilated;
- to replace a card that is incorrect on account of INS error; or
- to replace a card that was never received.

If you are a permanent resident, you must also file this application:

- to replace a card that has an expiration date on it and is expiring; or
- within 30 days of your 14th birthday, to replace a card issued before your 14th birthday; or
- if you have been a lawful permanent resident in the U.S. and are now taking up Commuter status while actually residing outside the U.S.; or
- if you have been in resident Commuter status and are now taking up actual residence in the U.S; or
- if your status has been automatically converted to permanent resident; or
- when you have an older edition of the card and must replace it with the current type of card.

### General Filing Instructions.

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A." If an answer is "none," write "none." If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), and indicate the number of the item to which the answer refers. You must file your application with the required Initial Evidence. Every application must be properly signed and accompanied by the appropriate fee (see "Fee" on page 2). If you are under 14 years of age, your parent or guardian may sign the application on your behalf.

**Translations.** Any foreign language document must be accompanied by a full English translation that the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate the foreign language into English.

**Copies.** If these instructions state that a copy of a document may be filed with this application, and you choose to send us the original, we may keep that original for our records.

### Initial Evidence.

You must file your application with:

- **Your Prior Card or other Evidence of Identity.** You must submit your original permanent resident card with your application unless it has been lost, stolen, destroyed or you never received it. If your card has an expiration date on it, and it is expiring, you will be required to present your card at the time of the in-person appearance, and may be required to submit the card with the application at that time. If you have been automatically converted to permanent resident status, you must attach your original temporary status document.

If these instructions do not require that you submit your original permanent resident card, submit a copy if you have one. If you do not have a copy and are at least 18 years old, you must file your application with a copy of an identity document, such as a driver's license, passport or a copy of another document containing your name, date of birth, photograph and signature.

- **Photos.** You must submit 2 identical natural color photographs of yourself taken within 30 days of this application. The photos must have a white background, be unmounted, printed on thin paper and be glossy and unretouched. The photo should show a three-quarter frontal profile showing the right side of your face, with your right ear visible and with your head bare (unless you are wearing a headdress as required by a religious order of which you are a member). The photos should be no larger than 2 X 2 inches, with the distance from the top of the head to just below the chin about 1 and 1/4 inches. Lightly print your A# on the back of each photo with a pencil.
- **Fingerprints.** If you are filing this application to register as a result of turning 14 years of age, you must be fingerprinted. After filing this application, INS will notify you in writing of the time and location where you must go to be fingerprinted. Failure to appear to be fingerprinted may result in a denial of your application.
- **Correction or change in biographic data.** If you are applying to replace a card because of a name change, you must submit a copy of a court order or marriage certificate reflecting the new name. To replace a card because of a change in any other biographic data, you must submit copies of documentation to prove that the new data is correct. A replacement application based on administrative INS error must also include an explanation.

**Where to File.**

Unless otherwise instructed, file this application in person at the local INS office having jurisdiction over where you live. When you file in person you will have to complete the signature and fingerprint blocks of a Form I-89, Data Collection Form at an INS office when you file this application. If you are instructed to mail this application to INS, you will be instructed when to appear to complete the I-89. Appearance requirements may be waived in cases of confinement due to advanced age or physical infirmity.

If you are outside the United States, contact the nearest American Consulate, INS office or Port of Entry, before submitting this application.

**Fee.**

The fee for this application is \$130.00. If you must be fingerprinted in connection with this application (see instruction on Fingerprints), the fee for fingerprinting is \$50.00. You may submit one check or money order for both the application and fingerprinting fees, for a total of \$180.00. Fees must be submitted in the exact amount. Fees cannot be refunded. **DO NOT MAIL CASH.**

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you live in Guam and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the U.S. Virgin Islands and are filing this application in the U.S. Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check in payment of an application fee will render the application and any document issued invalid. A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

**Evidence of Registration.**

A pending application for a replacement permanent resident card is temporary evidence of registration.

**Processing Information.**

*Acceptance.* Any application that is not signed or is not accompanied by the correct fee will be rejected with a notice that the application is deficient. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until it is accepted by INS.

**THIS ADDRESS.**

**NOT MAIL YOUR COMPLETED APPLICATION TO**  
4034; Washington, DC 20536; OMB No. 1115-0004. **DO**

Naturalization Service, HQPDI, 425 I Street N.W., Room form simpler, you can write to the Immigration and accuracy of this estimate, or suggestions for making this per application. If you have comments regarding the assemble and file the application, including the required in person filing; for a total estimated average of 55 minutes (2) 10 minutes to complete the form; and (3) 35 minutes follows: (1) 10 minutes to learn about the law and form; time to complete and file this application is computed as immigration laws are very complex. The estimated average with information. Often this is difficult because some impose the least possible burden on you to provide us that are accurate, can be easily understood and that control number. We try to create forms and instructions information unless it displays a currently valid OMB A person is not required to respond to a collection of **Paperwork Reduction Act Notice.**

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are seeking. Our legal right to ask for this information is in 8 USC 1302 and 1304. We may provide this information to other government agencies. Failure to provide this information and any requested evidence may delay a final decision or result in denial of your request.

**Privacy Act Notice.**

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

**Penalties.**

*Decision.* You will be notified in writing of the decision on your application. If your application is approved and you have completed the required Form I-89, Data Collection Card, your card will be manufactured and sent to you.

*Requests for more information or interview.* We may request more information or evidence or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

*Initial processing.* Once the application has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, you will not establish a basis for eligibility and we may deny your application.

# Application to Replace Permanent Resident Card

## START HERE - Please Type or Print

### Part 1. Information about you.

Family Name	Given Name	Middle Initial
U.S. Mailing Address - C/O		
Street Number and Name	Apt. #	
City		
State	ZIP Code	
Date of Birth (Month/Day/Year)	Country of Birth	
Social Security #	A #	

### Part 2. Application type.

**1. My status is:** (check one)

- a. ☐ Permanent Resident - (Not a Commuter)  
b. ☐ Permanent Resident - (Commuter)  
c. ☐ Conditional Permanent Resident

**2. Reason for application:** (check one)

**I am a Permanent Resident or Conditional Permanent Resident and:**

- a. ☐ my card was lost, stolen or destroyed. I have attached a copy of an identity document.  
b. ☐ my authorized card was never received. I have attached a copy of an identity document.  
c. ☐ my card is mutilated. I have attached the mutilated card.  
d. ☐ my card was issued with incorrect information because of INS administrative error. I have attached the incorrect card and evidence of the correct information.  
e. ☐ my name or other biographic information has changed since the card was issued. I have attached my present card and evidence of the new information.

**I am a Permanent Resident and:**

- f. ☐ my present card has an expiration date and it is expiring.  
g. ☐ I have reached my 14th birthday since my card was issued. I have attached my present card.  
h. 1. ☐ I have taken up Commuter status. I have attached my present card and evidence of my foreign residence.  
h. 2. ☐ I was a Commuter and am now taking up residence in the U.S. I have attached my present card and evidence of my residence in the U.S.  
i. ☐ my status has been automatically converted to permanent resident. I have attached my Temporary Status Document.  
j. ☐ I have an old edition of the card.

### Part 3. Processing information.

Mother's First Name	Father's First Name
City of Residence where you applied for an Immigrant Visa or Adjustment of Status	Consulate where Immigrant Visa was issued or INS office where status was Adjusted
City/Town/Village of Birth	Date of Admission as an immigrant or Adjustment of Status

Continued on back.

## FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
<input type="checkbox"/> Applicant Interviewed	
Status as _____ Verified by _____	
Class _____ Initials _____	
FD-258 forwarded on _____	
I-89 forwarded on _____	
I-551 seen and returned _____ (Initials)	
Photocopy of I-551 verified _____ (Initials)	
Name _____ Date _____	
Sticker # _____ (ten-digit number)	

### Action Block

**To Be Completed by  
Attorney or Representative, if any**

☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

**Part 3. Processing information (continued):**

If you entered the U.S. with an Immigrant Visa, also complete the following:

Destination in U.S. at  
time of Admission  
Port of Entry where  
Admitted to U.S.

Are you in deportation or exclusion proceedings? ☐ No ☐ Yes

Since you were granted permanent residence, have you ever filed Form I-407, Abandonment by Alien of Status as Lawful Permanent Resident, or otherwise been judged to have abandoned your status? ☐ No ☐ Yes

If you answer yes to any of the above questions, explain in detail on a separate piece of paper.

**Part 4. Signature.** (Read the information on penalties in the instructions before completing this section. You must file this application while in the United States.

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it is all true and correct. I authorize the release of any information from my records that the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature  
Date  
Daytime Phone Number

Please Note: If you do not completely fill out this form or fail to submit required documents listed in the instructions, you cannot be found eligible for the requested document and this application may be denied.

**Part 5. Signature of person preparing form, if other than above. (Sign below)**

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature  
Print Your Name  
Date  
Daytime Phone Number

Name and Address of Business/Organization (if applicable)



## I-129F, Petition for Alien Fiancé(e)

Read the instructions carefully. If you do not follow the instructions, we may have to return your petition, which may delay final action.

### 1. Who May File?

- A. You are a U.S. citizen, and
- B. You and your fiancé(e) intend to marry within 90 days of your fiancé(e) entering the United States, and are both free to marry, and have met in person within two years before your filing of this petition unless:
  - 1) The requirement to meet your fiancé(e) in person would violate strict and long-established customs of your or your fiancé(e)'s foreign culture or social practice; or
  - 2) It is established that the requirement to personally meet your fiancé(e) would result in extreme hardship to you.

OR

- C. You wish to have your alien spouse or child enter as a nonimmigrant. See Question 12.

**NOTE:** Unmarried children of your fiancé(e) or spouse who are under 21 years of age and listed on this form will be eligible to apply to accompany your fiancé(e) or spouse.

### 2. General Filing Instructions.

- A. Type or print legibly in black ink.
- B. If extra space is needed to complete any item, attach a continuation sheet, indicate the item number, and date and sign each sheet.
- C. Answer all questions fully and accurately. State that an item is not applicable with "N/A." If the answer is "none," write none.
- D. **Translations.** Any foreign language document must be accompanied by a full English translation, that the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate the foreign language into English.
- E. **Copies.** If these instructions state that a copy of a document may be filed with this petition and you choose to send us the original, the Bureau of Citizenship and Immigration Services (CIS) will keep that original for our records. If the CIS requires the original, we will request it.

**NOTE:** The CIS is comprised of offices of the former Immigration and Naturalization Service (INS).

### 3. What Documents Do You Need to Show That You Are a United States Citizen?

- A. If you were born in the United States, give the CIS a copy, front and back, of your birth certificate.

- B. If you were naturalized, give the CIS a copy, front and back, of your original Certificate of Naturalization.
- C. If you were born outside the United States, and you are a U.S. citizen through your parents, give the CIS:
  - 1) Your original Certificate of Citizenship, or
  - 2) Your Form FS-240 (Report of Birth Abroad of a United States Citizen).
- D. In place of any of the above, you may give the CIS a copy of your valid, unexpired U.S. passport that was issued for at least five years. You must submit copies of all pages in the passport.
- E. If you do not have any of the above and were born in the United States, see instruction under Number 4 below, "What If a Document Is Not Available?".

### 4. What If a Document Is Not Available?

If the documents needed above are not available, you can give CIS the following instead. However, the CIS may request in writing that you obtain a statement from the appropriate civil authority certifying that the needed document is not available. Any evidence submitted must contain enough information, such as a birth date, to establish the event you are trying to prove.

- A. **Baptismal certificate.** A copy, front and back, of the certificate under the seal of the church, synagogue or other religious entity showing where the baptism, dedication or comparable rite occurred, as well as the date and place of the child's birth, date of baptism and names of the child's parents. The baptism must have occurred within two months after the birth of the child.
- B. **School record.** A letter from the school authority (preferably from the first school attended), showing the date of admission to the school, child's date or age at that time, place of birth, and the names of the parents.
- C. **Census record.** State or Federal census record showing the name(s), date(s) and place(s) of birth or age(s) of the person(s) listed.
- D. **Affidavits.** Written statements sworn to, or affirmed by, two persons who were living at the time and who have personal knowledge of the event. For example, a birth, marriage or death. These persons may be relatives and do not have to be citizens of the United States. Each affidavit should contain the person's full name and address, date and place of birth, and relationship to you and must fully describe the event and explain how he or she acquired knowledge of the event.

## 5. What Documents Do You Need to Prove That You Can Legally Marry?

- Provide copies of evidence that you and your fiancé(e) have personally met within the last two years, or if you have never met within the last two years, provide a detailed explanation and evidence of the extreme hardship or customary, cultural or social practices that have prohibited your meeting; and

- Provide original statements from you and your fiancé(e) whom you plan to marry within 90 days of his or her admission, and copies of any evidence you wish to submit to establish your mutual intent; and
- If either of you is of an age that requires special consent or permission for you to marry in the jurisdiction where your marriage will occur, give proof of that consent or permission; and
- If either you or your fiancé(e) were married before, give copies of documents showing that each prior marriage was legally terminated.

## 6. What Other Documents Do You Need?

- Give the CIS one color photo of you and one of your fiancé(e), taken within 30 days of the date of this petition. These photos must have a white background. The photos must be glossy, un-retouched and not mounted. The dimension of the facial image should be about one inch from your chin to the top of your hair in 3/4 frontal view, showing the right side of your face with your right ear visible. Using a pencil or felt pen, lightly print the name (and Alien Registration Number, if known) on the back of each photograph.
- Submit separate completed and signed Forms G-325A (Biographic Information) for you and your fiancé(e). Except for name and signature, you do not have to repeat on the Biographic Information forms the information given on your Form I-129F.
- If either you or the person you are filing for is using a name other than that shown on the relevant documents, you must give the CIS copies of the legal documents that made the change, such as a marriage certificate, adoption decree or court order.

## 7. Where Should You File This Form?

- If you are filing for your fiancé(e), submit this application according to your place of residence, as listed below:

- If you live in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, U.S. Virgin Islands, Virginia or West Virginia, mail this petition to: USCIS Vermont Service Center, 75 Lower Welden Street, St. Albans, VT 05479-0001

## 9. How Does Your Alien Fiancé(e) Obtain Permanent Resident Status?

- If you are filing for your fiancé(e), submit this application according to your place of residence, as listed below:

- If you live in the U.S. Virgin Islands and are filing your petition in the U.S. Virgin Islands, make the check or money order payable to "Commissioner of Finance of the Virgin Islands."
- If you live in the U.S. Virgin Islands and are filing your petition in the U.S. Virgin Islands, make the check or money order payable to "Treasurer, Guam" or

- If you live in Guam and are filing your petition in Guam, make the check or money order payable to "Treasurer, Guam" or
- If you live in the U.S. Virgin Islands and are filing your petition in the U.S. Virgin Islands, make the check or money order payable to "Commissioner of Finance of the Virgin Islands."

## 8. What Is the Fee?

- If you are filing for your spouse under the K nonimmigrant visa program, mail your application to: USCIS, P.O. Box 7218, Chicago, IL 60680-7218.

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## 10. How Does Your Conditional Permanent Resident Spouse Become a Lawful Permanent Resident Without Conditions?

Both you and your conditional permanent resident spouse are required to file a petition, Form I-751, Petition to Remove the Conditions on Residence, during the 90-day period immediately before the second anniversary of the date your alien spouse was granted conditional permanent residence. Children who were admitted as conditional permanent residents with your spouse may be included in the joint petition to remove the conditions.

The rights, privileges, responsibilities and duties that apply to all other permanent residents apply equally to a conditional permanent resident to file petitions on behalf of qualifying relatives, or to reside permanently in the United States as an immigrant in accordance with the immigration laws.

### NOTICE

**Failure to file Form I-751, Petition to Remove the Conditions on Residence, will result in termination of permanent residence status and initiation of removal proceedings.**

## 11. How Do You Use This Form for Your Spouse or Child Seeking Entry Using a K-3/K-4 visa?

This form may be used to obtain a K-3/K-4 visa for your alien spouse or child. Fill out the form as directed, except assume that "fiancé" or "fiancé(e)" means "spouse." In addition, omit Questions **B.18** and **B.19** by entering "N/A." Note that this form is only necessary to facilitate the entry of your spouse or child as a **nonimmigrant**.

You must submit the documents required in Questions **3**, **4** and **6** of the instructions, but may omit the documents required in Question **5**. In addition, citizens petitioning for K-3 visas for their alien spouses must also include evidence that they have filed Form I-130 on behalf of the alien spouse listed on this form, and a marriage certificate evidencing the legal marriage between the citizen and alien.

The LIFE Act requires applicants to apply for a K-3/K-4 visa in the country where their marriage to the U.S. citizen petitioner took place. Petitioners should make sure to identify the appropriate consulate, in the same country where they married the alien for whom they are petitioning, in block **20** to avoid lengthy delays. In the event the petitioner and alien were married in the United States, they should list the country of the alien's current residence. See U.S. State Department regulations at 21 CFR 41.81.

## 12. Processing Information.

Any petition that is not signed or accompanied by the correct fee will be rejected with a notice that it is deficient. You may correct the deficiency and resubmit the petition. However, a petition is not considered properly filed until accepted by the CIS. Once the petition has been accepted,

it will be checked for completeness, including submission of the required evidence. If you do not completely fill out the form or file it without required initial evidence, you will not establish a basis for eligibility and we may deny your petition.

We may request more information or evidence or we may request that you appear at a CIS office for an interview.

## 13. What Are the Penalties for Committing Marriage Fraud or Submitting False Information or Both?

Title 18, United States Code, Section 100 states that whoever willfully and knowingly falsifies a material fact, makes a false statement, or makes use of a false document will be fined up to \$10,000 or imprisoned up to five years, or both.

Title 8, United States Code, Section 1325 states that any individual who knowingly enters into a marriage contract for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than five years, or fined not more than \$250,000, or both.

## 14. Information and CIS Forms.

For information on immigration laws, regulations and procedures and to order CIS forms, call our National Customer Service Center toll-free at **1-800-375-5283** or visit our internet website at **www.uscis.gov**.

## 15. What Is Our Authority for Collecting This Information?

We request the information on this form to carry out the immigration laws contained in Title 8, United States Code 1184(d). We need this information to determine whether a person is eligible for immigration benefits. The information you provide may also be disclosed to other federal, state, local and foreign law enforcement and regulatory agencies during the course of the investigation required by the CIS.

You do not have to give this information. However, if you refuse to give some or all of it, your petition may be denied.

## 16. What Is the Reporting Burden?

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood and that impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated time to file this application is 30 minutes per application.

If you have any comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Bureau of Citizenship and Immigration Services, HQRF5, 425 I Street, N.W., Room 4034, Washington, DC 20529, OMB No. 1115-0071. **Do not mail your completed application to this address.**



**FOR CIS USE ONLY**

**Part B. Information about your alien fiancé(e).**

- INITIAL RECEIPT \_\_\_\_\_ RESUBMITTED \_\_\_\_\_ RELOCATED: Rec'd. \_\_\_\_\_ Sent \_\_\_\_\_ COMPLETED: Appv'd. \_\_\_\_\_ Denied \_\_\_\_\_ Ret'd. \_\_\_\_\_



**B. Information about your alien fiancé(e). (Continued)**

**13. List all children of your alien fiancé(e) (if any).**

Name (First/Middle/Last)	Date of Birth	Country of Birth	Present Address

**14. Address in the United States where your fiancé(e) intends to live.**

(Number and Street)	(Town or City)	(State)

**15. Your fiancé(e)'s address abroad.**

(Number and Street)	(Town or City)	(State or Province)

(Country)

	(Phone Number)

**16. If your fiancé(e)'s native alphabet uses other than Roman letters, write his or her name and address abroad in the native alphabet.**

(Name)	(Number and Street)

(Town or City)	(State or Province)	(Country)

**17. Is your fiancé(e) related to you?**

☐ Yes ☐ No

If you are related, state the nature and degree of relationship, e.g., third cousin or maternal uncle, etc.

--

**18. Has your fiancé(e) met and seen you?**

☐ Yes ☐ No

Describe the circumstances under which you met. If you have not personally met each other, explain how the relationship was established, and explain in detail any reasons you may have for requesting that the requirement that you and your fiancé(e) must have met should not apply to you.

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**19. Your fiancé(e) will apply for a visa abroad at the American embassy or consulate in:**

(City)	(Country)

(Designation of a U.S. embassy or consulate outside the country of your fiancé(e)'s last residence does not guarantee acceptance for processing by that foreign post. Acceptance is at the discretion of the designated embassy or consulate.)

**C. Other information.**

**If you are serving overseas in the Armed Forces of the United States, please answer the following:**

I presently reside or am stationed overseas and my current mailing address is:

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**PENALTIES:** You may by law be imprisoned for not more than five years, or fined \$250,000, or both, for entering into a marriage contract for the purpose of evading any provision of the immigration laws, and you may be fined up to \$10,000 or imprisoned up to five years, or both, for knowingly and willfully falsifying or concealing a material fact or using any false document in submitting this petition.

**YOUR CERTIFICATION:** I am legally able to and intend to marry my alien fiancé(e) within 90 days of his or her arrival in the United States. I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Furthermore, I authorize the release of any information from my records which the Bureau of Citizenship and Immigration Services needs to determine eligibility for the benefit that I am seeking.

Signature	Date (mm/dd/yyyy)	Daytime Telephone Number (with area code)

**D. Signature of person preparing form, if other than above. (Sign below.)**

I declare that I prepared this application at the request of the applicant and it is based on all information of which I have knowledge.

Signature	Print or Type Your Name	G-28 ID Number	Date (mm/dd/yyyy)

Firm Name and Address	Daytime Telephone Number (with area code)

## Instructions

**Read the instructions carefully. If you do not follow the instructions, we may have to return your petition, which may delay final action.**

### 1. Who may file?

A citizen or lawful permanent resident of the United States may file this form with the Immigration and Naturalization Service (INS) to establish the relationship to certain alien relatives who wish to immigrate to the United States. You must file a separate form for each eligible relative.

### 2. For whom may you file?

**A.** If you are a citizen, you may file this form for:

- 1) your husband, wife or unmarried child under 21 years old.
- 2) your unmarried son or daughter over 21, or married son or daughter of any age.
- 3) your brother or sister if you are at least 21 years old.
- 4) your parent if you are at least 21 years old.

**B.** If you are a lawful permanent resident, you may file this form for:

- 1) your husband or wife.
- 2) your unmarried child under 21 years of age.
- 3) your unmarried son or daughter over 21 years of age.

**NOTE:** If your relative qualifies under paragraph A(2) or A(3) above, separate petitions are not required for his or her husband or wife or unmarried children under 21 years of age. If your relative qualifies under paragraph B(2) or B(3) above, separate petitions are not required for his or her unmarried children under 21 years of age. These persons will be able to apply for the same category of immigrant visa as your relative.

### 3. For whom may you not file?

You may not file for a person in the following categories.

- A.** An adoptive parent or adopted child, if the adoption took place after the child's 16th birthday, or if the child has not been in the legal custody and living with the parent(s) for at least two years.
- B.** A natural parent, if the United States citizen son or daughter gained permanent residence through adoption.
- C.** A stepparent or stepchild, if the marriage that created the relationship took place after the child's 18th birthday.
- D.** A husband or wife, if you were not both physically present at the marriage ceremony, and the marriage was not consummated.
- E.** A husband or wife, if you gained lawful permanent resident status by virtue of a prior marriage to a United States citizen or lawful permanent resident unless:

- 1) a period of five years has elapsed since you became a lawful permanent resident; or
- 2) you can establish by clear and convincing evidence that the prior marriage (through which you gained your immigrant status) was not entered into for the purpose of evading any provision of the immigration laws; or
- 3) your prior marriage (through which you gained your immigrant status) was terminated by the death of your former spouse.

**F.** A husband or wife, if he or she was in exclusion, removal, rescission or judicial proceedings regarding his or her right to remain in the United States when the marriage took place, unless such spouse has resided outside the United States for a two-year period after the date of the marriage.

**G.** A husband or wife, if the Attorney General has determined that such an alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

**H.** A grandparent, grandchild, nephew, niece, uncle, aunt, cousin or in-law.

### 4. What are the general filing instructions?

- A.** Type or print legibly in black or dark blue ink.
- B.** If extra space is needed to complete any item, attach a continuation sheet, indicate the item number, and date and sign each sheet.
- C.** Answer all questions fully and accurately. If any item does not apply, please write "N/A."
- D. Translations.** Any foreign language document must be accompanied by a full English translation, which the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate the foreign language into English.
- E. Copies.** If these instructions state that a copy of a document may be filed with this petition and you choose to send us the original, INS will keep that original for our records. If INS requires the original, it will be requested.

### 5. What documents do you need to show that you are a United States citizen?

- A.** If you were born in the United States, a copy of your birth certificate, issued by the civil registrar, vital statistics office, or other civil authority. If a birth certificate is not available, see the section below titled "What if a document is not available?"

- B. A child and you are the father:** give a copy of the child's birth certificate showing both parents' names and your marriage certificate.
- C. A child and you are the father:** give a copy of the child's birth certificate showing both parents' names and your marriage certificate.
- D. A child born out of wedlock and you are the father:** if the child was not legitimated before reaching 18 years old, you must file your petition with copies of evidence that a bona fide parent-child relationship existed between the father and the child before the child reached 21 year. This may include evidence that the father lived with the child, supported him or her, or otherwise showed continuing parental interest in the child's welfare.
- E. A brother or sister:** give a copy of your birth certificate and a copy of your brother's or sister's birth certificate showing that you have at least one common parent. If you and your brother or sister have a common father but different mothers, submit copies of the marriage certificates of the father to each mother and copies of documents showing that any prior marriages of either your father or mothers were legally terminated. If you and your brother or sister are related through adoption or through a stepparent, or if you have a common father and either of you were not legitimated before your 18th birthday, see also H and I below.
- F. A mother:** give a copy of your birth certificate showing your name and your mother's name.
- G. A father:** give a copy of your birth certificate showing the names of both parents. Also give a copy of your parents' marriage certificate establishing that your father was married to your mother before you were born, and copies of documents showing that any prior marriages of either your father or mother were legally terminated. If you are filing for a stepparent or adoptive parent, or if you are filing for your father and were not legitimated before your 18th birthday, also see D, H and I.
- H. Stepparent/stepchild:** if your petition is based on a stepparent-stepchild relationship, you must file your petition with a copy of the marriage certificate of the stepparent to the child's natural parent showing that the marriage occurred before the child's 18th birthday, and copies of documents showing that any prior marriages were legally terminated.
- I. Adoptive parent or adopted child:** if you and the person you are filing for are related by adoption, you must submit a copy of the adoption decree(s) showing that the adoption took place before the child became 16 years old. If you adopted the sibling of a child you already adopted, you must submit a copy of the adoption decree(s) showing that the adoption of the sibling occurred before that child's 18th birthday. In either case, you must also submit copies of evidence that each child was in the legal custody of and resided with the parent(s) who adopted him or her for at least two years before or after the adoption. Legal custody may only be granted by a court or recognized government entity and is usually
- B. A copy of your naturalization certificate or certificate of citizenship issued by INS.**
- C. A copy of Form FS-240, Report of Birth Abroad of a Citizen of the United States, issued by an American embassy or**
- D. A copy of your unexpired U.S. passport; or**
- E. An original statement from a U.S. consular officer verifying that you are a U.S. citizen with a valid passport.**
- F. If you do not have any of the above documents and you were born in the United States, see instruction under 9 below, "What if a document is not available?"**
- 6. What documents do you need to show that you are a permanent resident?**
- If you are a permanent resident, you must file your petition with a copy of the front and back of your permanent resident card. If you have not yet received your card, submit copies of your passport biographic page and the page showing admission as a permanent resident, or other evidence of permanent resident status issued by INS.
- 7. What documents do you need to prove a family relationship?**
- You have to prove that there is a family relationship between you and your relative. If you are filing for:
- A. A husband or wife, give INS the following documentation:**
- 1)** a copy of your marriage certificate.
- 2)** if either you or your spouse were previously married, submit copies of documents showing that all prior marriages were legally terminated.
- 3)** a color photo of you and one of your husband or wife, taken within 30 days of the date of this petition. The photos must have a white background and be glossy, untouched and not mounted. The dimensions of the facial image should be about 1 inch from the chin to top of the hair, in a 3/4 frontal view, showing the right side of the face with the right ear visible. Using pencil or felt pen, lightly print the name (and Alien Registration Number, if known) on the back of each photograph.
- 4)** a completed and signed G-325A (Biographic Information Form) for you and one for your husband or wife. Except for name and signature, you do not have to repeat on the G-325A the information given on your I-130 petition.
- B. A child and you are the mother:** give a copy of the child's birth certificate showing your name and the name of your child.

granted at the time the adoption is finalized. However, if legal custody is granted by a court or recognized government agency prior to the adoption, that time may be counted toward fulfilling the two-year legal custody requirement.

## 8. What if your name has changed?

If either you or the person you are filing for is using a name other than that shown on the relevant documents, you must file your petition with copies of the legal documents that effected the change, such as a marriage certificate, adoption decree or court order.

## 9. What if a document is not available?

If the documents needed are not available, give INS a statement from the appropriate civil authority certifying that the document or documents are not available. In such situation, you may submit secondary evidence, including:

- A. Church record:** a copy of a document bearing the seal of the church, showing the baptism, dedication or comparable rite occurred within two months after birth, and showing the date and place of the child's birth, date of the religious ceremony and the names of the child's parents.
- B. School record:** a letter from the authority (preferably the first school attended) showing the date of admission to the school, child's date of birth or age at that time, the place of birth, and the names of the parents.
- C. Census record:** state or federal census record showing the names, place of birth, date of birth or the age of the person listed.
- D. Affidavits:** written statements sworn to or affirmed by two persons who were living at the time and who have personal knowledge of the event you are trying to prove. For example, the date and place of birth, marriage or death. The person making the affidavit does not have to be a citizen of the United States. Each affidavit should contain the following information regarding the person making the affidavit: his or her full name, address, date and place of birth and his or her relationship to you, if any, full information concerning the event, and complete details explaining how the person acquired knowledge of the event.

## 10. Where should you file this form?

If you reside in the U.S., file this form at the INS service Center having jurisdiction over your place of residence.

If you live in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia or West Virginia, mail this petition to: **USINS Vermont Service Center, 75 Lower Welden Street, St. Albans, VT 05479-0001.**

**NOTE:** If the I-130 petition is being filed concurrently with Form I-485, Application to Register Permanent Residence or to Adjust Status, submit both forms at the local INS office having jurisdiction over the place where the I-485 applicant resides. Applicants who reside in the jurisdiction of the Baltimore, MD, District Office should submit the I-130 petition and the Form I-485 concurrently to the **USINS Vermont Service Center, 75 Lower Welden Street, St. Albans, VT 05479-0001.**

If you live in Alaska, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin or Wyoming, mail this petition to: **USINS Nebraska Service Center, P.O. Box 87130, Lincoln, NE 68501-7130.**

If you live in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee or Texas, mail this petition to: **USINS Texas Service Center, P.O. Box 850919, Mesquite, TX 75185-0919.**

If you live in Arizona, California, Guam, Hawaii or Nevada, mail this petition to: **USINS California Service Center, P.O. Box 10130, Laguna Niguel, CA 92607-0130.**

**Petitioners residing abroad:** If you live outside the United States, you may file your relative petition at the INS office overseas or the U.S. consulate or embassy having jurisdiction over the area where you live. For further information, contact the nearest American consulate or embassy.

## 11. What is the fee?

You must pay \$130.00 to file this form. **The fee will not be refunded, whether the petition is approved or not. DO NOT MAIL CASH.** All checks or money orders, whether U.S. or foreign, must be payable in U.S. currency at a financial institution in the United States. When a check is drawn on the account of a person other than yourself, write your name on the face of the check. If the check is not honored, INS will charge you \$30.00.

Pay by check or money order in the exact amount. Make the check or money order payable to Immigration and Naturalization Service, unless:

- A.** you live in Guam, and are filing your petition there, make the check or money order payable to the "Treasurer, Guam" or
- B.** you live in the U.S. Virgin Islands, and you are filing your petition there, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."



12. When will a visa become available?

When a petition is approved for the husband, wife, parent or unmarried minor child of a United States citizen, these relatives do not have to wait for a visa number because they are not subject to the immigrant visa limit.

However, for a child to qualify for the immediate relative category, all processing must be completed and the child must enter the United States before his or her 21st birthday.

For all other alien relatives, there are only a limited number of immigrant visas each year. The visas are issued in the order in which the petitions are properly filed and accepted by INS. To be considered properly filed, a petition must be fully completed and signed, and the fee must be paid.

For a monthly report on the dates when immigrant visas are available, call the U.S. Department of State at (202) 647-0508.

13. Notice to persons filing for spouses, if married less than two years.

Pursuant to section 216 of the Immigration and Nationality Act, your alien spouse may be granted conditional permanent resident status in the United States as of the date he or she is admitted or adjusted to conditional status by an INS Officer. Both you and your conditional resident spouse are required to file Form I-751, Joint Petition to Remove Conditional Basis of Alien's Permanent Resident Status, during the 90-day period immediately before the second anniversary of the date your alien spouse was granted conditional permanent resident status.

Otherwise, the rights, privileges, responsibilities and duties that apply to all other permanent residents apply equally to a conditional permanent resident. A conditional permanent resident is not limited to the right to apply for naturalization, to file petitions on behalf of qualifying relatives or to reside permanently in the United States as an immigrant in accordance with our nation's immigration laws.

**NOTE:** Failure to file the Form I-751 joint petition to remove the conditional basis of the alien spouse's permanent resident status will result in the termination of his or her permanent resident status and initiation of removal proceedings.

14. What are the penalties for committing marriage fraud or submitting false information or both?

Title 8, United States Code, Section 1325, states that any individual who knowingly enters into a marriage contract for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than five years, or fined not more than \$250,000, or both.

Title 18, United States Code, Section 1001, states that whoever willfully and knowingly falsifies a material fact, makes a false statement, or makes use of a false document will be fined up to \$10,000, imprisoned for up to five years, or both.

15. What is our authority for collecting this information?

We request the information on the form to carry out the immigration laws contained in Title 8, United States Code, Section 1154(a). We need this information to determine whether a person is eligible for immigration benefits. The information you provide may also be disclosed to other Federal, state, local and foreign law enforcement and regulatory agencies during the course of the investigation required by INS. You do not have to give this information. However, if you refuse to give some or all of it, your petition may be denied.

16. Paperwork Reduction Act Notice.

A person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: U.S. Department of Justice, Immigration and Naturalization Service, Room 4034, Washington, D.C. 20536; OMB No. 1115-0054. **DO NOT MAIL YOUR COMPLETED APPLICATION TO THIS ADDRESS.**

Checklist.

- Did you answer each question on the Form I-130 petition?
- Did you sign the petition?
- Did you enclose the correct filing fee for each petition?
- Did you submit proof of your U.S. citizenship or lawful permanent residence?
- Did you submit other required supporting evidence?
- If you are filing for your husband or wife, did you include your photograph?
- his or her photograph?
- your completed Form G-325A?
- his or her Form G-325A?



Petition for Alien Relative

DO NOT WRITE IN THIS BLOCK - FOR EXAMINING OFFICE ONLY		
A#	Action Stamp	Fee Stamp
Section of Law/Visa Category <input type="checkbox"/> 201(b) Spouse - IR-1/CR-1 <input type="checkbox"/> 201(b) Child - IR-2/CR-2 <input type="checkbox"/> 201(b) Parent - IR-5 <input type="checkbox"/> 203(a)(1) Unm. S or D - F1-1 <input type="checkbox"/> 203(a)(2)(A) Spouse - F2-1 <input type="checkbox"/> 203(a)(2)(A) Child - F2-2 <input type="checkbox"/> 203(a)(2)(B) Unm. S or D - F2-4 <input type="checkbox"/> 203(a)(3) Married S or D - F3-1 <input type="checkbox"/> 203(a)(4) Brother/Sister - F4-1		Petition was filed on: _____ (priority date) <input type="checkbox"/> Personal Interview <input type="checkbox"/> Previously Forwarded <input type="checkbox"/> Pet. <input type="checkbox"/> Ben. "A" File Reviewed <input type="checkbox"/> I-485 Filed Simultaneously <input type="checkbox"/> Field Investigation <input type="checkbox"/> 204(g) Resolved <input type="checkbox"/> 203(a)(2)(A) Resolved <input type="checkbox"/> 203(g) Resolved
Remarks:		

A. Relationship You are the petitioner; your relative is the beneficiary.

1. I am filing this petition for my: <input type="checkbox"/> Husband/Wife <input type="checkbox"/> Parent <input type="checkbox"/> Brother/Sister <input type="checkbox"/> Child	2. Are you related by adoption? <input type="checkbox"/> Yes <input type="checkbox"/> No	3. Did you gain permanent residence through adoption? <input type="checkbox"/> Yes <input type="checkbox"/> No
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B. Information about you	C. Information about your relative
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1. Name (Family name in CAPS) (First) (Middle)	1. Name (Family name in CAPS) (First) (Middle)
2. Address (Number and Street) (Apt.No.) (Town or City) (State/Country) (Zip/Postal Code)	2. Address (Number and Street) (Apt. No.) (Town or City) (State/Country) (Zip/Postal Code)
3. Place of Birth (Town or City) (State/Country)	3. Place of Birth (Town or City) (State/Country)
4. Date of Birth (Month/Day/Year) 5. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female 6. Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced	4. Date of Birth (Month/Day/Year) 5. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female 6. Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced
7. Other Names Used (including maiden name)	7. Other Names Used (including maiden name)
8. Date and Place of Present Marriage (if married)	8. Date and Place of Present Marriage (if married)
9. Social Security Number (if any) 10. Alien Registration Number	9. Social Security Number (if any) 10. Alien Registration Number
11. Name(s) of Prior Husband(s)/Wife(s) 12. Date(s) Marriage(s) Ended	11. Name(s) of Prior Husband(s)/Wife(s) 12. Date(s) Marriage(s) Ended

13. If you are a U.S. citizen, complete the following: My citizenship was acquired through (check one): <input type="checkbox"/> Birth in the U.S. <input type="checkbox"/> Naturalization. Give certificate number and date and place of issuance. <input type="checkbox"/> Parents. Have you obtained a certificate of citizenship in your own name? <input type="checkbox"/> Yes. Give certificate number, date and place of issuance. <input type="checkbox"/> No	13. Has your relative ever been in the U.S.? <input type="checkbox"/> Yes <input type="checkbox"/> No 14. If your relative is currently in the U.S., complete the following: He or she arrived as a: (visitor, student, stowaway, without inspection, etc.) Arrival/Departure Record (I-94) Date arrived (Month/Day/Year)                     Date authorized stay expired, or will expire, as shown on Form I-94 or I-95 15. Name and address of present employer (if any) Date this employment began (Month/Day/Year) 16. Has your relative ever been under immigration proceedings? <input type="checkbox"/> No <input type="checkbox"/> Yes Where _____ When _____ <input type="checkbox"/> Removal <input type="checkbox"/> Exclusion/Deportation <input type="checkbox"/> Recission <input type="checkbox"/> Judicial Proceedings
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INITIAL RECEIPT	RESUBMITTED	RELOCATED: Rec'd	Sent	COMPLETED: Appv'd	Denied	Ret'd
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**C. Information about your alien relative (continued)**

17. List husband/wife and all children of your relative.

(Name) \_\_\_\_\_

(Relationship) \_\_\_\_\_

(Date of Birth) \_\_\_\_\_

(Country of Birth) \_\_\_\_\_

18. Address in the United States where your relative intends to live.

(Street Address) \_\_\_\_\_

(Town or City) \_\_\_\_\_

(State) \_\_\_\_\_

19. Your relative's address abroad. (Include street, city, province and country)

\_\_\_\_\_

Phone Number (if any) \_\_\_\_\_

20. If your relative's native alphabet is other than Roman letters, write his or her name and foreign address in the native alphabet.

(Name) \_\_\_\_\_

Address (Include street, city, province and country): \_\_\_\_\_

21. If filing for your husband/wife, give last address at which you lived together. (Include street, city, province, if any, and country):

**From:** \_\_\_\_\_

**To:** \_\_\_\_\_

(Month) (Year) (Month) (Year)

22. Complete the information below if your relative is in the United States and will apply for adjustment of status

Your relative is in the United States and will apply for adjustment of status to that of a lawful permanent resident at the office of the Immigration and Naturalization Service in \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_.

If your relative is not eligible for adjustment of status, he or she will apply for a visa abroad at the American consular post in \_\_\_\_\_ (City) \_\_\_\_\_ (Country) \_\_\_\_\_

NOTE: Designation of an American embassy or consulate outside the country of your relative's last residence does not guarantee acceptance for processing by that post. Acceptance is at the discretion of the designated embassy or consulate.

**D. Other information**

1. If separate petitions are also being submitted for other relatives, give names of each and relationship.

2. Have you ever filed a petition for this or any other alien before? ☐ Yes ☐ No

If "Yes," give name, place and date of filing and result.

**WARNING:** INS investigates claimed relationships and verifies the validity of documents. INS seeks criminal prosecutions when family relationships are falsified to obtain visas.

**PENALTIES:** By law, you may be imprisoned for not more than five years or fined \$250,000, or both, for entering into a marriage contract for the purpose of evading any provision of the immigration laws. In addition, you may be fined up to \$10,000 and imprisoned for up to five years, or both, for knowingly and willfully falsifying or concealing a material fact or using any false document in submitting this petition.

**YOUR CERTIFICATION:** I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit that I am seeking.

**E. Signature of petitioner.**

\_\_\_\_\_

Date \_\_\_\_\_

Phone Number \_\_\_\_\_

**F. Signature of person preparing this form, if other than the petitioner.**

I declare that I prepared this document at the request of the person above and that it is based on all information of which I have any knowledge.

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_

G-28 ID or VOLAG Number, if any.

## INSTRUCTIONS

### What Is the Purpose of This Form?

This form is used to apply to the Bureau of Citizenship and Immigration Services (CIS), comprised of offices of the former Immigration and Naturalization Service (INS), for the following travel documents:

- **Reentry Permit** - A reentry permit allows a permanent resident or conditional resident to apply for admission to the United States upon return from abroad during the permit's validity, without having to obtain a returning resident visa from a U.S. embassy or consulate.
  - **Refugee Travel Document** - A refugee travel document is issued to a person classified as a refugee or asylee, or to a permanent resident who obtained such status as a result of being a refugee or asylee in the United States. Persons who hold such status must have a refugee travel document to return to the United States after temporary travel abroad unless he or she is in possession of a valid advance parole document. A refugee travel document is issued by the CIS to implement Article 28 of the United Nations Convention of July 28, 1951.
  - **Advance Parole Document** - An advance parole document is issued solely to authorize the temporary parole of a person into the United States. The document may be accepted by a transportation company in lieu of a visa as an authorization for the holder to travel to the United States. An advance parole document is not issued to serve in place of any required passport.
- Advance parole is an extraordinary measure used sparingly to bring an otherwise inadmissible alien to the United States for a temporary period of time due to a compelling emergency. Advance parole cannot be used to circumvent the normal visa issuing procedures and is not a means to bypass delays in visa issuance.

**NOTE:** If you are in the United States and wish to travel abroad, you do not need to apply for advance parole if both conditions described below in numbers 1 and 2 are met:

1. You are in one of the following nonimmigrant categories:
  - a. An H-1, temporary worker, or H-4, spouse or child of an H-1; **or**
  - b. An L-1, intracompany transferee, or L-2, spouse or child of an L-1; **or**
  - c. A K-3, spouse, or K-4, child, of a U.S. citizen; **or**
  - d. A V-2, spouse, or V-3, child, of a lawful permanent resident; **and**
2. A Form I-485, Application to Register Permanent Residence or Adjust Status, was filed on your behalf and is pending with the CIS.

However, upon returning to the United States, you must present your valid H, L, K or V nonimmigrant visa and continue to remain eligible for that status.

### Who May File This Form?

Each applicant must file a separate application for a travel document.

#### I. Reentry Permit.

- A. *If you are in the United States* as a permanent resident or conditional permanent resident, you may apply for a reentry permit.

Departure from the United States before a decision is made on an application for a reentry permit does not affect the application.

You must be physically present in the United States when you file the application. However, a reentry permit may be sent to a U.S. embassy or consulate or Department of Homeland Security (DHS) office abroad for you to pick up, if you request it when you file your application.

With the exception of having to obtain a returning resident visa abroad, a reentry permit does not relieve you of any of the requirements of the United States immigration laws.

If you stay outside the United States for less than one year, you are not required to apply for a reentry permit. You may reenter the United States on your Permanent Resident Card (Form I-551).

If you intend to apply in the future for naturalization, absences from the United States for one year or more will generally break the continuity of your required continuous residence in the United States. If you intended to remain outside the United States for one year or more, you should file a Form N-470, Application to Preserve Residence for Naturalization Purposes. For further information, contact your local CIS office.

#### B. *Validity of reentry permit.*

1. Generally, a reentry permit issued to a permanent resident shall be valid for two years from the date of issuance. However, if since becoming a permanent resident you have been outside the United States for more than four of the last five years, the permit will be limited to one year, except that a permit with a validity of two years may be issued to the following:
  - a. A permanent resident whose travel is on the order of the United States government, other than an exclusion, deportation, removal or recission order.
  - b. A permanent resident employed by a public international organization of which the United States is a member by treaty or statute.

2. A notice was published in the Federal Register that precludes the issuance of such a document for travel to the area where you intend to go.

**NOTICE to permanent residents who obtain permanent residence as a result of their refugee or asylum status:** If you do not obtain a reentry permit and remain outside the United States for one year or more, it may be determined that you have abandoned your permanent resident status.

**III. Advance Parole Document.**

**Travel Warning**

**Before you apply for an advance parole document, read this travel warning carefully.**

- If you have been unlawfully present in the United States for more than 180 days but less than one year and you leave before removal proceedings are started against you, you may be inadmissible for three years from the date of departure.
- If you have been unlawfully present in the United States for one year or more, you may be inadmissible for ten years from the date of departure regardless of whether you left before, during or after removal proceedings.
- Unlawful presence is defined as being in the United States without having been inspected and admitted or paroled (illegal entry), or after the period of authorized stay has expired.

However, certain immigration benefits and time spent in the United States while certain applications are pending may place you in a period of authorized stay. These include, but are not limited to, a properly filed adjustment of status application, temporary protected status (TPS), deferred enforced departure (DED), asylum and withholding of removal.

- Although advance parole may allow you to return to the United States, your departure may trigger the three- or ten-year bar, if you accrued more than 180 days of unlawful presence **BEFORE** the date you were considered to be in a period of authorized stay.

Therefore, if you apply for adjustment of status after you return to the United States, resume an adjustment application that was pending before you left, or return to a status that requires you to establish that you are not inadmissible, you will need to apply for and receive a waiver of inadmissibility before your adjustment application may be approved or your status continued.

Generally, only those persons who can establish extreme hardship to their United States citizen or lawful permanent resident spouse or parent may apply for the waiver for humanitarian reasons, to assure family unity or when it is otherwise in the public interest. (See sections 209(c), 212(a)(9) and 244(c) of the Immigration and Nationality Act for more information on unlawful presence and the available waivers.)

c. A permanent resident who is a professional athlete and regularly competes in the United States and worldwide.

2. A reentry permit issued to a conditional resident shall be valid for two years from the date of issuance, or to the date the conditional resident must apply for removal of the conditions on his or her status, whichever date comes first.

3. A reentry permit may not be extended.

**C. A reentry permit may not be issued to you if:**

1. You have already been issued such a document and it is still valid, unless the prior document has been returned to the CIS, or you can demonstrate that it was lost; or

2. A notice was published in the Federal Register that precludes the issuance of such a document for travel to the area where you intend to go.

**II. Refugee Travel Document.**

**A. If you are in the United States in valid refugee or asylum status, or if you are a permanent resident as a direct result of your refugee or asylum status in the United States, you may apply for a refugee travel document.** Generally, you must have a refugee travel document to return to the United States after temporary travel abroad.

You must be physically present in the United States when you file the application. However, a refugee travel document may be sent to a United States embassy or consulate or DHS office abroad for you to pick up, if you request it when you file your application.

**B. Validity of refugee travel document.**

1. A refugee travel document shall be valid for one year.

2. A refugee travel document may not be extended.

**C. A refugee travel document may not be issued to you if:**

1. You have already been issued such a document and it is still valid, unless the prior document has been returned to the CIS, or you can demonstrate that it was lost; or



**A. If you are outside the United States and need to visit the United States temporarily for emergent humanitarian reasons:**

1. You may apply for an advance parole document. However, your application must be based on the fact that you cannot obtain the necessary visa and any required waiver of inadmissibility. Parole under these conditions is granted on a case-by-case basis for temporary entry, according to such conditions as prescribed.
2. A person in the United States may file this application on your behalf. In so doing, he or she should complete **Part 1** of the form with information about him or herself.

**B. If you are in the United States and seek advance parole:**

1. You may apply if you have an adjustment of status application pending and you seek to travel abroad for emergent personal or bona fide business reasons; or
2. You may apply if you are classified as a refugee or asylee and you seek to travel abroad for emergent personal or bona fide business reasons, or you are traveling to Canada to apply for a U.S. immigrant visa. (See **Part II, Refugee Travel Document on Page 2 of these Instructions**, for additional information on refugee/asylee travel); or
3. You may apply if you have been granted Temporary Protected Status or another immigration status that allows you to return to that status after a brief, casual and innocent absence (as defined in 8 CFR 244.1) from the United States.

**C. An advance parole document may not be issued to you if:**

1. You held J-1 nonimmigrant status and are subject to the two-year foreign residence requirement as a result of that status; or
2. You are in exclusion, deportation, removal or recission proceedings.

**D. If you travel before the advance parole document is issued, your application will be deemed abandoned if:**

1. You depart from the United States; or
2. The person seeking advance parole attempts to enter the United States before a decision is made on the application.

**General Filing Instructions.**

Every application must be properly signed and filed with the correct fee. If you are under 14 years of age, your parent or guardian may sign the application on your behalf.

Any application that is not signed or accompanied by the correct fee will be rejected and returned to you. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until it is accepted by the CIS.

Please answer all questions by typing or clearly printing in black ink. If an item is not applicable to you, write "N/A." If the answer is none, please write "None." If you need extra space to answer a question, attach a separate sheet of paper with your name and A #, if any, written at the top and indicate the number of the question.

**Initial Evidence.**

**I. Evidence of Eligibility.**

We may request additional information or evidence, or we may request that you appear at a CIS office for an interview. You must file your application with all the required evidence. If you do not submit the required evidence, it will delay the issuance of the document you are requesting.

All applications must include a **copy of an official photo identity document showing your photo, name and date of birth**. (Example: a valid government issued driver's license, passport identity page, Form I-551, Permanent Resident Card or any other official identity document.) The copy must **clearly** show the photo and identity information. **A Form I-94, Arrival/Departure Document, is not acceptable as a photo identity document.**

If you are applying for a:

**A. Reentry Permit.**

You must attach:

1. A copy of the front and back of your Form I-551, Permanent Resident Card; or
2. If you have not yet received your Form I-551, a copy of the biographic page(s) of your passport and a copy of the visa page showing your initial admission as a permanent resident, or other evidence that you are a permanent resident; or
3. A copy of the Form I-797, Notice of Action, approval notice of an application for replacement of your Permanent Resident Card or temporary evidence of permanent resident status.

**B. Refugee Travel Document.**

You must attach a copy of the document issued to you by the CIS or former INS showing your refugee or asylee status and the expiration date of such status.

**C. Advance Parole Document.**

1. **If you are in the United States**, you must attach:
  - a. A copy of any document issued to you by the CIS or former INS showing your present status in the United States; and
  - b. An explanation or other evidence showing the circumstances that warrant issuance of an advance parole document; or



- c. If you are an applicant for adjustment of status, a copy of the CIS or former INS receipt as evidence that you filed the adjustment application; or
- d. If you are traveling to Canada to apply for an immigrant visa, a copy of the U.S. consular appointment letter.
2. *If you are applying for a person who is outside the United States, you must attach:*

- a. A statement of how and by whom medical care, transportation, housing, and other expenses and subsistence needs will be met; and

- b. An Affidavit of Support (Form I-134), with evidence of the sponsor's occupation and ability to provide necessary support; and

- c. A statement explaining why a U.S. visa cannot be obtained, including when and where attempts were made to obtain a visa; and

- d. A statement explaining why a waiver of inadmissibility cannot be obtained to allow issuance of a visa, including when and where attempts were made to obtain a waiver, and a copy of any CIS or former INS decision on your waiver request; and

- e. A copy of any decision on an immigrant petition filed for the person, and evidence regarding any pending immigrant petition; and

- f. A complete description of the emergent reasons explaining why advance parole should be authorized and including copies of any evidence you wish considered, and indicating the length of time for which the parole is requested.

## II. Photographs.

- A. *If you are filing for a reentry permit or a refugee travel document, or if you are in the United States and filing for an advance parole document:*

You must submit two identical color photographs of yourself taken within 30 days of the filing of this application. The photos must have a white background, be printed on thin paper with a glossy finish, and be unmounted and unretouched. **NOTE: Digital photos are not acceptable.**

The photos should show a three-quarter frontal view of the right side of your face, with your right ear visible and your head bare (unless you are wearing a headress as required by a religious order of which you are a member).

The photos should be no larger than 2 by 2 inches. From the top of the head to just below the chin, the image of your head should be about 1 and 1/4 inches. Using a pencil, lightly print your Alien Registration Number (A#), if any, on the back of each photo.

## III. Copies.

2. If you are filing this application for an advance parole document for another person, submit the required photographs of the person to be paroled.

1. If you are applying for an advance parole document and you are outside the United States, do not submit the photographs with your application. Prior to issuing the parole document, the U.S. embassy or consulate or DHS office abroad will provide you with information regarding the photograph requirements.

- B. *If the person seeking advance parole is outside the United States:*

Any travel document obtained by making a material false representation or concealment in this application will be invalid.

A travel document will also be invalid if you are ordered removed or deported from the United States.

In addition, a refugee travel document will be invalid if the United Nations Convention of July 28, 1951, shall cease to apply or shall not apply to you as provided in Article 1C, D, E or F of the Convention.

### Processing Information.

We may request additional information or evidence, or we may request that you appear at a CIS office for an interview. You must file your application with all the required evidence. If you do not submit the required evidence, it will delay the issuance of the document you are requesting. If you do not establish a basis for eligibility, we may deny your application.

### Where to File.

- A. *If you are applying for a reentry permit or refugee travel document, mail the application to:*

USCIS Nebraska Service Center  
P.O. Box 87131  
Lincoln, NE 68501-7131

- B. *If you are in the United States and filing for an advance parole document:*

1. If you filed at a CIS field office to adjust your status as a permanent resident, submit or mail this application to that office according to its filing procedures.

2. If you filed at a CIS service center to adjust your status as a permanent resident, mail this application to that service center. The service center address is noted on the CIS or former INS receipt related to the filing of your adjustment application. You can also obtain the service center address by visiting the CIS website at [www.uscis.gov](http://www.uscis.gov) or calling our National Customer Service Center at **1-800-375-5283**.

3. If you were granted Temporary Protected Status, file this application at the local CIS office having jurisdiction over your place of residence.

**C. If you are requesting an advance parole document, and are in removal proceedings or are the beneficiary of a Private Bill, mail this application to:**

**USCIS Office of International Affairs  
Parole and Humanitarian Assistance Branch**  
425 "I" Street, N.W.  
Attn.: ULLICO Building, 3rd Floor  
Washington, DC 20536

**D. If you are outside the United States and applying for an advance parole document on humanitarian grounds, or if such a request is being filed on your behalf, mail this application to:**

**USCIS Office of International Affairs  
Parole and Humanitarian Assistance Branch**  
425 "I" Street, N.W.  
Attn.: ULLICO Building, 3rd Floor  
Washington, DC 20536

**E. Haitian Refugee Immigrant Fairness Act (HRIFA) dependent spouse or child outside the United States:** If you are the spouse or child of a principal HRIFA applicant and are seeking advance parole to enter the United States to file for adjustment of status as a permanent resident, mail this application to:

**USCIS Nebraska Service Center**  
P.O. Box 87131  
Lincoln, NE 68501-7131

**F. If you are a refugee or asylee who has filed an adjustment of status application and are now requesting an advance parole document, mail this application to:**

**USCIS Nebraska Service Center**  
P.O. Box 87131  
Lincoln, NE 68501-7131

**NOTE:** If you are a refugee or asylee and have not filed an adjustment of status application, you cannot apply for advance parole. You must request a refugee travel document before departing from the United States. (See instructions on **Page 4, "Where to File," item A.**)

## What Is the Fee?

**The fee for this application is \$165.00.** The fee must be submitted in the exact amount. It cannot be refunded. **Do not mail cash.** All checks and money orders must be drawn on a bank or other financial institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the **U.S. Department of Homeland Security**, unless:

- A. If you live in Guam and are filing this application there, make your check or money order payable to the "Treasurer, Guam."
- B. If you live in the U.S. Virgin Islands and are filing this application there, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

When making out your check or money order, spell out U.S. Department of Homeland Security. Do not use the initials "USDHS" or "DHS."

## What If You Claim Nonresident Alien Status on Your Federal Income Tax Return?

If you are an alien who has established residence in the United States after having been admitted as an immigrant or adjusted status to that of an immigrant, and are considering the filing of a nonresident alien tax return or the non-filing of a tax return on the ground that you are a nonresident alien, you should carefully review the consequences of such actions under the Immigration and Nationality Act.

If you file a nonresident alien tax return or fail to file a tax return, you may be regarded as having abandoned residence in the United States and as having lost your permanent resident status under the Act. As a consequence, you may be ineligible for a visa or other document for which permanent resident aliens are eligible.

You may also be inadmissible to the United States if you seek admission as a returning resident, and you may become ineligible for adjustment of status as a permanent resident or naturalization on the basis of your original entry.

## What Are the Penalties for Providing False Information?

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are seeking and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution and/or removal from the United States.

**What Is Our Authority for Collecting This Information?**

We ask for the information on this form and associated evidence to determine if you have established eligibility for the immigration benefit you are seeking. Our legal right to ask for this information is in 8 U.S.C. 1203 and 1225. We may provide this information to other government agencies. Failure to provide this information and any requested evidence may delay a final decision or result in denial of your request.

**Information and CIS Forms.**

For information on immigration laws, regulations and procedures and to order CIS forms, call our **National Customer Service Center** toll-free at 1-800-375-5283 or visit our internet web site at [www.uscis.gov](http://www.uscis.gov).

**Paperwork Reduction Act Notice.**

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it contains a currently valid OMB approval number. We try to create forms and instructions that are accurate, can be easily understood and impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 10 minutes to learn about the law and form; (2) 10 minutes to complete the form; (3) 35 minutes to assemble and file the application; for a total estimated average of 55 minutes per application. If you have comments regarding the accuracy of this estimate or suggestions for making this form simpler, write to the Bureau of Citizenship and Immigration Services, Regulations and Forms Services Division (HQRRFS), 425 I Street, N.W., Room 4034, Washington DC 20529; OMB No. 1615-0013. **Do not mail your completed application to this address.**

# I-131, Application for Travel Document

**DO NOT WRITE IN THIS BLOCK**

**FOR CIS USE ONLY (except G-28 block below)**

<b>Document Issued</b> <input type="checkbox"/> Reentry Permit <input type="checkbox"/> Refugee Travel Document <input type="checkbox"/> Single Advance Parole <input type="checkbox"/> Multiple Advance Parole Valid to: _____ <b>If Reentry Permit or Refugee Travel Document, mail to:</b> <input type="checkbox"/> Address in Part 1 <input type="checkbox"/> American embassy/consulate at: _____ <input type="checkbox"/> Overseas DHS office at: _____	<b>Action Block</b>	<b>Receipt</b>  <input type="checkbox"/> Document Hand Delivered On _____ By _____ <b>To be completed by Attorney/Representative, if any.</b> Attorney State License # _____ <input type="checkbox"/> Check box if G-28 is attached.
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**Part 1. Information about you. (Please type or print in black ink.)**

1. A # _____	2. Date of Birth (mm/dd/yyyy) _____	3. Class of Admission _____	4. Gender Male <input type="checkbox"/> Female <input type="checkbox"/>
5. Name (Family name in capital letters) _____	(First) _____	(Middle) _____	
6. Address (Number and Street) _____			Apt. # _____
City _____	State or Province _____	Zip/Postal Code _____	Country _____
7. Country of Birth _____	8. Country of Citizenship _____	9. Social Security # (if any) _____	

**Part 2. Application type (check one).**

a. ☐ I am a permanent resident or conditional resident of the United States and I am applying for a reentry permit.

b. ☐ I now hold U.S. refugee or asylee status and I am applying for a refugee travel document.

c. ☐ I am a permanent resident as a direct result of refugee or asylee status and I am applying for a refugee travel document.

d. ☐ I am applying for an advance parole document to allow me to return to the United States after temporary foreign travel.

e. ☐ I am outside the United States and I am applying for an advance parole document.

f. ☐ I am applying for an advance parole document for a person who is outside the United States. *If you checked box "f", provide the following information about that person:*

1. Name (Family name in capital letters) _____	(First) _____	(Middle) _____	
2. Date of Birth (mm/dd/yyyy) _____	3. Country of Birth _____	4. Country of Citizenship _____	
5. Address (Number and Street) _____	Apt. # _____	Daytime Telephone # (area/country code) _____	
City _____	State or Province _____	Zip/Postal Code _____	Country _____



Part 3. Processing information.

1. Date of Intended Departure (mm/dd/yyyy)

2. Expected Length of Trip

3. Are you, or any person included in this application, now in exclusion, deportation, removal or recission proceedings? ☐ No ☐ Yes (Name of DHS office):

If you are applying for an Advance Parole Document, skip to Part 7.

4. Have you ever before been issued a reentry permit or refugee travel for the last document issued to you): ☐ No ☐ Yes (Give the following information

Date Issued (mm/dd/yyyy):

Disposition (attached, lost, etc.):

5. Where do you want this travel document sent? (Check one)

☐ To the U.S. address shown in Part 1 on the first page of this form.

☐ To an American embassy or consulate at: City: Country:

☐ To a DHS office overseas at: City: Country:

d. If you checked "b" or "c", where should the notice to pick up the travel document be sent?

☐ To the address shown in Part 2 on the first page of this form.

☐ To the address shown below:

Address (Number and Street)

Apt. #

Daytime Telephone # (area/country code)

City

State or Province

Zip/Postal Code

Country

Part 4. Information about your proposed travel.

Purpose of trip. If you need more room, continue on a separate sheet(s) of paper.

List the countries you intend to visit.

Part 5. Complete only if applying for a reentry permit.

Since becoming a permanent resident of the United States (or during the past five years, whichever is less) how much total time have you spent outside the United States?

☐ less than six months

☐ six months to one year

☐ one to two years

☐ two to three years

☐ three to four years

☐ more than four years

Since you became a permanent resident of the United States, have you ever filed a federal income tax return as a nonresident, or failed to file a federal income tax return because you considered yourself to be a nonresident? (If "Yes," give details on a separate sheet(s) of paper.) ☐ Yes ☐ No

Part 6. Complete only if applying for a refugee travel document.

1. Country from which you are a refugee or asylee:

If you answer "Yes" to any of the following questions, you must explain on a separate sheet(s) of paper.

2. Do you plan to travel to the above named country? ☐ Yes ☐ No

3. Since you were accorded refugee/asylee status, have you ever:

a. returned to the above named country?

b. applied for and/or obtained a national passport, passport renewal or entry permit of that country?

c. applied for and/or received any benefit from such country (for example, health insurance benefits).

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

4. Since you were accorded refugee/asylee status, have you, by any legal procedure or voluntary act:

a. reacquired the nationality of the above named country?

b. acquired a new nationality?

c. been granted refugee or asylee status in any other country?

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No



---

**Part 7. Complete only if applying for advance parole.**

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On a separate sheet(s) of paper, please explain how you qualify for an advance parole document and what circumstances warrant issuance of advance parole. Include copies of any documents you wish considered. *(See instructions.)*

1. For how many trips do you intend to use this document? ☐ One trip ☐ More than one trip
2. If the person intended to receive an advance parole document is outside the United States, provide the location (city and country) of the American embassy or consulate or the DHS overseas office that you want us to notify.

City  Country

3. If the travel document will be delivered to an overseas office, where should the notice to pick up the document be sent:

- ☐ To the address shown in **Part 2** on the first page of this form.
- ☐ To the address shown below:

Address *(Number and Street)*  Apt. #  Daytime Telephone # *(area/country code)*

City  State or Province  Zip/Postal Code  Country

---

**Part 8. Signature.** *Read the information on penalties in the instructions before completing this section. If you are filing for a reentry permit or refugee travel document, you must be in the United States to file this application.*

---

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it are all true and correct. I authorize the release of any information from my records that the Bureau of Citizenship and Immigration Services needs to determine eligibility for the benefit I am seeking.

Signature  Date *(mm/dd/yyyy)*  Daytime Telephone Number *(with area code)*

**Please Note:** *If you do not completely fill out this form or fail to submit required documents listed in the instructions, you may not be found eligible for the requested document and this application may be denied.*

---

**Part 9. Signature of person preparing form, if other than the applicant.** *(Sign below.)*

---

I declare that I prepared this application at the request of the applicant and it is based on all information of which I have knowledge.

Signature  Print or Type Your Name

Firm Name and Address  Daytime Telephone Number *(with area code)*

Fax Number *(if any)*  Date *(mm/dd/yyyy)*



**ATTACHMENT**

**APPLICATION FOR ADVANCE PAROLE  
(Form I-131)**

**Complete the following questions ONLY if you are applying for Advance Parole.**

**I have applied for permanent residence:** ☐ yes ☐ no

**Date of last entry to this country prior to filing application for permanent residence:**  
\_\_\_\_\_ valid until \_\_\_\_\_.

**My application was filed on:** \_\_\_\_\_.

**Nonimmigrant status at time of filing for permanent residence:**

☐ H-1 ☐ H-4 ☐ B-2 ☐ B-1 ☐ WT ☐ WB ☐ Illegal ☐ Other: \_\_\_\_\_

**I have / have not applied for an extension valid until:** \_\_\_\_\_

**My application for permanent residence is based on a petition filed by my:**

☐ Son/Daughter ☐ Brother/Sister ☐ Husband/Wife

☐ Mother/Father ☐ Myself (Asylum / PIP)

**I have ☐ / have not ☐ been unlawfully present in the United States for more than 180 days prior to filing for Permanent Residence.**

**PLEASE READ CAREFULLY BEFORE SIGNING**

**IF YOU HAVE BEEN UNLAWFULLY PRESENT IN THE UNITED STATES FOR MORE THAN 180 DAYS BEFORE FILING FOR PERMANENT RESIDENCE, YOUR APPLICATION FOR PERMANENT RESIDENCE MAY BE DENIED IF YOU CHOOSE TO DEPART THE UNITED STATES ON AN ADVANCE PAROLE PER SECTION 212(a)(9)(B)(i) OF THE INA.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**Affidavit of Support***(Answer All Items: Fill in with Typewriter or Print in Block Letters in Ink.)*I, \_\_\_\_\_ residing at \_\_\_\_\_  
(Name) (Street and Number)\_\_\_\_\_  
(City) (State) (Zip Code if in U.S.) (Country)**BEING DULY SWORN DEPOSE AND SAY:**1. I was born on \_\_\_\_\_ at \_\_\_\_\_  
(Date) (City) (Country)If you are **not** a native born United States citizen, answer the following as appropriate:

- a. If a United States citizen through naturalization, give certificate of naturalization number \_\_\_\_\_
- b. If a United States citizen through parent(s) or marriage, give citizenship certificate number \_\_\_\_\_
- c. If United States citizenship was derived by some other method, attach a statement of explanation.
- d. If a lawfully admitted permanent resident of the United States, give "A" number \_\_\_\_\_

2. That I am \_\_\_\_\_ years of age and have resided in the United States since (date) \_\_\_\_\_

3. That this affidavit is executed in behalf of the following person:

Name		Gender	Age
Citizen of (Country)		Marital Status	Relationship to Sponsor
Presently resides at (Street and Number)		(City)	(State) (Country)

Name of spouse and children accompanying or following to join person:

Spouse	Gender	Age	Child	Gender	Age
Child	Gender	Age	Child	Gender	Age
Child	Gender	Age	Child	Gender	Age

4. That this affidavit is made by me for the purpose of assuring the United States Government that the person(s) named in item 3 will not become a public charge in the United States.

5. That I am willing and able to receive, maintain and support the person(s) named in item 3. That I am ready and willing to deposit a bond, if necessary, to guarantee that such person(s) will not become a public charge during his or her stay in the United States, or to guarantee that the above named person(s) will maintain his or her nonimmigrant status, if admitted temporarily and will depart prior to the expiration of his or her authorized stay in the United States.

6. That I understand this affidavit will be binding upon me for a period of three (3) years after entry of the person(s) named in item 3 and that the information and documentation provided by me may be made available to the Secretary of Health and Human Services and the Secretary of Agriculture, who may make it available to a public assistance agency.

7. That I am employed as, or engaged in the business of \_\_\_\_\_ with \_\_\_\_\_  
(Type of Business) (Name of concern)  
at \_\_\_\_\_  
(Street and Number) (City) (State) (Zip Code)I derive an annual income of *(if self-employed, I have attached a copy of my last income tax return or report of commercial rating concern which I certify to be true and correct to the best of my knowledge and belief. See instructions for nature of evidence of net worth to be submitted.)*

\$ \_\_\_\_\_

I have on deposit in savings banks in the United States

\$ \_\_\_\_\_

I have other personal property, the reasonable value of which is

\$ \_\_\_\_\_

**OVER**



I have stocks and bonds with the following market value, as indicated on the attached list, which I certify to be true and correct to the best of my knowledge and belief.

I have life insurance in the sum of \$ \_\_\_\_\_  
With a cash surrender value of \$ \_\_\_\_\_  
I own real estate valued at \$ \_\_\_\_\_  
With mortgage(s) or other encumbrance(s) thereon amounting to \$ \_\_\_\_\_

Which is located at \_\_\_\_\_  
(Street and Number) (City) (State) (Zip Code)  
8. That the following persons are dependent upon me for support: (Place an "x" in the appropriate column to indicate whether the person named is *wholly* or *partially* dependent upon you for support.)

Name of Person	Wholly Dependent	Partially Dependent	Age	Relationship to Me

9. That I have previously submitted affidavit(s) of support for the following person(s). If none, state "None."  
Name \_\_\_\_\_  
Date submitted \_\_\_\_\_

10. That I have submitted visa petition(s) to the Immigration and Naturalization Service on behalf of the following person(s). If none, state none.  
Name \_\_\_\_\_  
Relationship \_\_\_\_\_  
Date submitted \_\_\_\_\_

11. (Complete this block only if the person named in the item 3 will be in the United States temporarily.)  
That I ☐ intend ☐ do not intend, to make specific contributions to the support of the person named in item 3. (If you check "intend," indicate the exact nature and duration of the contributions. For example, if you intend to furnish room and board, state for how long and, if money, state the amount in United States dollars and state whether it is to be given in a lump sum, weekly or monthly, or for how long.)

**Oath or Affirmation of Sponsor**  
*I acknowledge at that I have read Part III of the Instructions, Sponsor and Alien Liability, and am aware of my responsibilities as an immigrant sponsor under the Social Security Act, as amended, and the Food Stamp Act, as amended.*  
I swear (affirm) that I know the contents of this affidavit signed by me and the statements are true and correct.

Signature of sponsor \_\_\_\_\_  
Subscribed and sworn to (affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
at \_\_\_\_\_ . My commission expires on \_\_\_\_\_

*Signature of Officer Administering Oath* \_\_\_\_\_  
Title \_\_\_\_\_  
If affidavit prepared by other than sponsor, please complete the following: I declare that this document was prepared by me at the request of the sponsor and is based on all information of which I have knowledge.

(Signature) \_\_\_\_\_  
(Address) \_\_\_\_\_  
(Date) \_\_\_\_\_

## INSTRUCTIONS

### I. Execution of Affidavit.

A separate affidavit must be submitted for each person. You, as the sponsor, must sign the affidavit in your full, true and correct name and affirm or make it under oath. If you are in the United States, the affidavit may be sworn to or affirmed before an immigration officer without the payment of fee, or before a notary public or other officer authorized to administer oaths for general purposes, in which case the official seal or certificate of authority to administer oaths must be affixed. If you are **outside the United States** the affidavit must be sworn to or affirmed before a United States consular or immigration officer.

### II. Supporting Evidence.

The sponsor must submit, in duplicate, evidence of income and resources, as appropriate.

A. Statement from an officer of the bank or other financial institution in which you have deposits giving the following details regarding your account:

1. date account opened
2. total amount deposited for the past year
3. present balance

B. Statement of your employer on business stationery, showing:

1. date and nature of employment
2. salary paid
3. whether position is temporary or permanent

C. If self-employed:

1. copy of last income tax return filed, or
2. report of commercial rating concern

D. List containing serial numbers and denominations of bonds and name of record owner(s).

### III. Sponsor and Alien Liability.

Effective October 1, 1980, amendments to section 1614(f) of the Social Security Act and Part A of Title XVI of the Social Security Act establish certain requirements for determining the eligibility of aliens who apply for the first time for Supplemental Security Income (SSI) benefits. Effective October 1, 1981, amendments to section 415 of the Social Security Act establish similar requirements for determining the eligibility of aliens who apply for the first time for Aid to Families with Dependent Children (AFDC) benefits. Effective December 22, 1981, amendments to the Food Stamp Act of 1977 affect the eligibility of alien participation in the Food Stamp Program. These amendments require that the income and resources of any person, who as the sponsor of an alien's entry into the United States, executes an affidavit of support or similar agreement on behalf of the alien, and the income and resources of the sponsor's spouse (*if living with the sponsor*) shall be deemed to be the income and resources of the alien under formulas for determining eligibility for SSI, AFDC and Food Stamp benefits during the three years following the alien's entry into the United States.

An alien applying for SSI must make available to the Social Security Administration documentation concerning his or her income and resources and those of the sponsor, including information that was provided in support of the application for an immigrant visa or adjustment of status. An alien applying for AFDC or Food Stamps must make similar information available to the State public assistance agency. The Secretary of Health and Human Services and the Secretary of Agriculture are authorized to obtain copies of any such documentation submitted to INS or the Department of State and to release such documentation to a State public assistance agency.

Sections 1621(e) and 415(d) of the Social Security Act and subsection 5(i) of the Food Stamp Act also provide that an alien and his or her sponsor shall be jointly and severally liable to repay any SSI, AFDC or Food Stamp benefits that are incorrectly paid because of misinformation provided by a sponsor or because of a sponsor's failure to provide information. Incorrect payments that are not repaid will be withheld from any subsequent payments for which the alien or sponsor are otherwise eligible under the Social Security Act or Food Stamp Act, except that the sponsor was without fault or where good cause existed.

These provisions do not apply to the SSI, AFDC or Food Stamp eligibility of aliens admitted as refugees, granted political asylum by the Attorney General, or Cuban/ Haitian entrants as defined in section 501(e) of P.L. 96-422 and of dependent children of the sponsor or sponsor's spouse. The provisions also do not apply to the SSI or Food Stamp eligibility of an alien who becomes blind or disabled after admission to the United States for permanent residency.

### IV. Authority/ Use/ Penalties.

Authority for the collection of the information requested on this form is contained in 8 USC 1182(a)(15), 1184(a) and 1258. The information will be used principally by INS, or by any consular officer to whom it may be furnished, to support an alien's application for benefits under the Immigration and Nationality Act and specifically the assertion that he or she has adequate means of financial support and will not become a public charge. Submission of the information is voluntary. It may also, as a matter of routine use, be disclosed to other federal, state, local and foreign law enforcement and regulatory agencies, including the Department of Health and Human Services, Department of Agriculture, Department of State, Department of Defense and any component thereof (if the deponent has served or is serving in the armed forces of the United States), Central Intelligence Agency, and individuals and organizations during the course of any investigation to elicit further information required to carry out Service functions. Failure to provide the information may result in the denial of the alien's application for a visa or his or her removal from the United States.

**Privacy Act Notice.**

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are seeking. Our legal right to ask for this information is in 8 USC 1203 and 1225. We may provide this information to other government agencies. Failure to provide this information and any requested evidence may delay a final decision or result in denial of your request.

**Paperwork Reduction Act Notice.**

We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is 20 minutes per application. If you have comments regarding the accuracy of this estimate or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4034, Washington, D.C. 20536; OMB No. 1115-0005. **DO NOT MAIL YOUR COMPLETED APPLICATION TO THIS ADDRESS.**

**Form I-485, Application to Register  
Permanent Residence or Adjust Status****Purpose of This Form.**

This form is used by a person who is in the United States to apply to the Immigration and Naturalization Service (INS) to adjust to permanent resident status or register for permanent residence. It may also be used by certain Cuban nationals to request a change in the date their permanent residence began.

**Who May File.**

**Based on an immigrant petition.** You may apply to adjust your status if:

- an immigrant visa number is immediately available to you based on an approved immigrant petition; or
- you are filing this application with a complete relative, special immigrant juvenile or special immigrant military petition, which if approved, would make an immigrant visa number immediately available to you.

**Based on being the spouse or child (derivative) at the time another adjustment applicant (principal) files to adjust status or at the time a person is granted permanent resident status in an immigrant category that allows derivative status for spouses and children.**

- **If the spouse or child is in the United States**, the individual derivatives may file their Form I-485 adjustment of status applications concurrently with the Form I-485 for the principal beneficiary, or file the Form I-485 at anytime after the principal is approved, if a visa number is available.
- **If the spouse or child is residing abroad**, the person adjusting status in the United States should file the **Form I-824, Application for Action on an Approved Application or Petition**, concurrently with the principal's adjustment of status application to allow the derivatives to immigrate to the United States without delay, if the principal's adjustment of status application is approved. **No I-824 fee will be refunded if the principal's adjustment is not granted.**

**Based on admission as the fiancé(e) of a U. S. citizen and subsequent marriage to that citizen.** You may apply to adjust status if you were admitted to the U. S. as the K-1 fiancé(e) of a U. S. citizen and you married that citizen within 90 days of your entry. If you were admitted as the K-2 child of such a fiancé(e), you may apply based on your parent's adjustment application.

**Based on asylum status.** You may apply to adjust status if you have been granted asylum in the U. S. after being physically present in the U. S. for one year after the grant of asylum, if you still qualify as an asylee or as the spouse or child of a refugee.

**Based on Cuban citizenship or nationality.** You may apply to adjust status if:

- you are a native or citizen of Cuba, were admitted or paroled into the U.S. after January 1, 1959, and thereafter have been physically present in the U.S. for at least one year; or
- you are the spouse or unmarried child of a Cuban described above, and regardless of your nationality, you were admitted or paroled after January 1, 1959, and thereafter have been physically present in the U.S. for at least one year.

**Based on continuous residence since before January 1, 1972.** You may apply for permanent residence if you have continuously resided in the U.S. since before January 1, 1972.

**Applying to change the date your permanent residence began.** If you were granted permanent residence in the U. S. prior to November 6, 1966, and are a native or citizen of Cuba, his or her spouse or unmarried minor child, you may ask to change the date your lawful permanent residence began to your date of arrival in the U. S. or May 2, 1964, whichever is later.

**Other basis of eligibility.** If you are not included in the above categories, but believe you may be eligible for adjustment or creation of record of permanent residence, contact your local INS office.

**Persons Who Are Ineligible.**

Unless you are applying for creation of record based on continuous residence since before January 1, 1972, or adjustment of status under a category in which special rules apply (such as asylum adjustment, Cuban adjustment, special immigrant juvenile adjustment or special immigrant military personnel adjustment), **you are not eligible for adjustment of status if any of the following apply to you:**

- you entered the U.S. in transit without a visa;
- you entered the U.S. as a nonimmigrant crewman;
- you were not admitted or paroled following inspection by an immigration officer;
- your authorized stay expired before you filed this application; you were employed in the U.S. prior to filing this application, without INS authorization; or you otherwise failed to maintain your nonimmigrant status, other than through no fault of your own or for technical reasons, unless you are applying because you are an immediate relative of a U.S. citizen (parent, spouse, widow, widower or unmarried child under 21 years old), a K-1 fiancé(e) or K-2 fiancé(e) dependent who married the U.S. petitioner within 90 days of admission or an "H" or "I" or special

immigrant (foreign medical graduates, international organization employees or their derivative family members);

- you are or were a J-1 or J-2 exchange visitor, are subject to the two-year foreign residence requirement and have not complied with or been granted a waiver of the requirement;
- you have an A, E or G nonimmigrant status, or have an occupation which would allow you to have this status, unless you complete Form I-508 (I-508F for French nationals) to waive diplomatic rights, privileges and immunities, and if you are an A or G nonimmigrant, unless you submit a complete Form I-566;
- you were admitted to Guam as a visitor under the Guam visa waiver program;
- you were admitted to the U.S. as a visitor under the Visa Waiver Pilot Program, unless you are applying because you are an immediate relative of a U.S. citizen (parent, spouse, widow, widower or unmarried child under 21 years old);
- you are already a conditional permanent resident;
- you were admitted as a K-1 fiancé(e) but did not marry the U.S. citizen who filed the petition for you, or were admitted as the K-2 child of a fiancé(e) and your parent did not marry the U.S. citizen who filed the petition.

**General Filing Instructions.**

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A." If the answer is "none," write "none." If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), if any, and indicate the number of the item to which the answer refers. You must file your application with the required **Initial Evidence** described below, beginning on this page. Your application must be properly signed and filed with the correct fee. If you are under 14 years of age, your parent or guardian may sign your application.

**Translations.** Any foreign language document must be accompanied by a full English translation which the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate the foreign language into English.

**Copies.** If these instructions state that a copy of a document may be filed with this application, and you choose to send us the original, we may keep the original for our records.

**Initial Evidence.**

You must file your application with the following evidence:

- **Birth certificate.** Submit a copy of your foreign birth certificate or other record of your birth that meets the provisions of secondary evidence found in 8 CFR 103.2(b)(2).
- **Copy of passport page with nonimmigrant visa.** If you have obtained a nonimmigrant visa(s) from an American consulate abroad within the last year, submit a photocopy(ies) of the page(s) of your passport with the visa(s).
- **Photos.** Submit two (2) identical natural color photographs of yourself, taken within 30 days of the application. Photos must have a white background, be unmounted, printed on thin paper and be glossy and unretouched. They must show a three-quarter frontal profile showing the right side of your face, with your right ear visible and with your head bare. You may wear a headdress if required by a religious order of which you are a member. The photos must be no larger than 2 X 2 inches, with the distance from the top of the head to just below the chin about 1 and 1/4 inches. Lightly print your A# (or your name if you have no A#) on the back of each photo, using a pencil.
- **Fingerprints.** If you are between the ages of 14 and 75, you must be fingerprinted. After filing this application, INS will notify you in writing of the time and location where you must go to be fingerprinted. Failure to appear to be fingerprinted may result in denial of your application.
- **Police clearances.** If you are filing for adjustment of status as a member of a special class described in an I-485 supplement form, please read the instructions on the supplement form to see if you need to obtain and submit police clearances, in addition to the required fingerprints, with your application.
- **Medical examination (Section 232 of the Act).** When required, submit a medical examination report on the form you have obtained from INS.



-- Based on derivative status as the spouse or child of another adjustment applicant or person granted permanent residence based on issuance of an immigrant visa. File your application with the application of that other applicant, or with evidence that it is pending with the Service or has been approved, or evidence that your spouse or parent has been granted permanent residence based on an immigrant visa and:

- If you are applying as the spouse of that person, also attach a copy of your birth certificate, and if the other person is not your natural mother, copies of evidence (such as a marriage certificate and documents showing the legal termination of all other marriages and an adoption decree) to demonstrate that you qualify as his or her child.
- If you are applying as the spouse of that person, also attach a copy of your marriage certificate and copies of documents showing the legal termination of all other marriages by you and your spouse;

**Other basis for eligibility.** Attach copies of documents proving that you are eligible for the classification.

**Where to file.** File this application at the INS office having jurisdiction over your place of residence.

**Fee.** The fee for this application is \$220, except that it is \$160 if you are less than 14 years old. There is no application fee if you are filing as a refugee under section 209(a) of the Act. If you are between the ages of 14 and 75, there is a \$25 fingerprinting fee in addition to the application fee. For example, if your application fee is \$220 and you are between the ages of 14 and 75, the total fee you must pay is \$245. You may submit one check or money order for both the application and fingerprinting fees. Fees must be submitted in the exact amount. **DO NOT MAIL CASH.** Fees cannot be refunded. All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

-- If you live in Guam and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."

-- If you live in the U.S., Virgin Islands and are filing this application in the U.S., Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check in payment of an application fee will render the application and any document issued invalid. A charge of \$30 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

#### Processing Information.

**Acceptance.** Any application that is not signed, or is not accompanied by the correct application fee, will be rejected with a notice that the application is deficient. You may correct the deficiency and resubmit the application. An application is not considered properly filed until accepted by the INS.

**Initial Processing.** Once an application has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your application.

**Requests for More Information.** We may request more information or evidence. We may also request that you submit the originals of any copy. We may return these originals when they are no longer required.

**Interview.** After you file your application you will be notified to appear at an INS office to answer questions about the application. You will be required to answer these questions under oath or affirmation. You must bring your Arrival-Departure Record (Form I-94) and any passport to the interview.

**Decision.** You will be notified in writing of the decision on your application.

**Selective Service Registration.** If you are a male at least 18 years old, but not yet 26 years old, and required according to the Military Selective Service Act to register with the Selective Service System, the INS will help you register. When your signed application is filed and accepted by the INS, we will transmit your name, current address, Social Security number, date of birth and the date you filed the application to the Selective Service to record your registration as of the filing date. If the INS does not accept your application, and if still so required, you are responsible to register with the Selective Service by other means, provided you are under 26 years of age. If you have already registered, the Selective Service will check its records to avoid any duplication. (Note: men 18 through 25 years old, who are applying for student financial aid, government employment or job training benefits should register directly with the Selective Service or such benefits may be denied. Men can register at a local post office or on the Internet at <http://www.sss.gov>).

-- **A. Individuals applying for adjustment of status through the INS Service Center:** 1) General: If you are filing your adjustment of status application with the INS Service Center, include your medical exam report with the application, unless you are a refugee or asylee. 2) Refugees: If you are applying for adjustment of status one year after you were admitted as a refugee, you only need to submit a vaccination supplement with your adjustment of status application, not the entire medical report, unless there were medical grounds of inadmissibility that arose during the initial exam you had overseas.

-- **B. Individuals applying for adjustment of status through the local INS office and asylees applying for adjustment of status through the Service Center:** If you are filing your adjustment of status application with the local INS office, or if you are an asylee filing an adjustment of status application with the Service Center, one year after you were granted asylum, do not submit a medical report with your adjustment of status application. Wait for further instructions from INS about how and where to take the medical exam and submit the medical exam report.

-- **Fiance(e)s:** If you are a K-1 fiance(e) or K-2 dependent who had a medical exam within the past year as required for the nonimmigrant fiance (e) visa, you only need to submit a vaccination supplement, not the entire medical report. You may include the vaccination supplement with your adjustment of status application.

-- **Individuals not required to have a medical exam:** The medical report is not required if you are applying for creation of a record for admission as a lawful permanent resident under section 249 of the Act as someone who has continuously resided in the United States since January 1, 1972 (registry applicant).

• **Form G-325A, Biographic Information Sheet.** You must submit a completed G-325A if you are between 14 and 79 years of age.

• **Evidence of status.** Submit a copy of your Form I-94, Nonimmigrant Arrival/Departure Record, showing your admission to the U.S. and current status, or other evidence of your status.

• **Affidavit of Support/Employment Letter.**

-- **Affidavit of Support.** Submit the Affidavit of Support (Form I-864) if your adjustment of status application is based on your entry as a fiance(e), or a relative visa petition (Form I-130) filed by your relative or on an employment based visa petition (Form I-140) based on a business that is five percent or more owned by your family.

-- **Employment Letter.** If your adjustment of status application is based on an employment based visa petition (Form I-140), you must submit a letter on the letterhead of the petitioning employer which confirms that the job on which the visa petition is based is still available to you. The letter must also state the salary that will be paid.

(Note: The affidavit of support and/or employment letter are not required if you are applying for creation of record based on continuous residence since before January 1, 1972, asylum adjustment, or a Cuban or a spouse or unmarried child of a Cuban who was admitted after January 1, 1959.)

• **Evidence of eligibility.**

-- **Based on an immigrant petition.** Attach a copy of the approval notice for an immigrant petition which makes a visa number immediately available to you, or submit a complete relative, special immigrant juvenile or special immigrant military petition which, if approved, will make a visa number immediately available to you.

-- **Based on admission as the K-1 fiance(e) of a U.S. citizen and subsequent marriage to that citizen.** Attach a copy of the fiance(e) petition approval notice, a copy of your marriage certificate and your Form I-94.

-- **Based on asylum status.** Attach a copy of the letter or Form I-94 which shows the date you were granted asylum.

-- **Based on continuous residence in the U.S. since before January 1, 1972.** Attach copies of evidence that shows continuous residence since before January 1, 1972.

-- **Based on Cuban citizenship or nationality.** Attach evidence of your citizenship or nationality, such as a copy of your passport, birth certificate or travel document.



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**Travel Outside the U.S. for Adjustment of Status Applicants Under Sections 209 and 245 of the Act and Registry Applicants Under Section 249 of the Act.** Your departure from the U.S. (including brief visits to Canada or Mexico) constitutes an abandonment of your adjustment of status application, unless you are granted permission to depart and you are inspected upon your return to the U.S. Such permission to travel is called "advance parole." To request advance parole, you must file Form I-131, with fee, with the INS office where you applied for adjustment of status.

- **Exceptions:** **1) H and L nonimmigrants:** If you are an H or L nonimmigrant who continues to maintain his or her status, you may travel on a valid H or L visa without obtaining advance parole. **2) Refugees and Asylees:** If you are applying for adjustment of status one year after you were admitted as a refugee or one year after you were granted asylum, you may travel outside the United States on your valid refugee travel document, if you have one, without the need to obtain advance parole.
- **WARNING:** Travel outside of the U.S. may trigger the 3-and 10-year bars to admission under section 212(a)(9)(B)(i) of the Act for adjustment applicants, but not registry applicants. This ground of inadmissibility is triggered if you were unlawfully present in the U.S. (i.e., you remained in the United States beyond the period of stay authorized by the Attorney General) for more than 180 days before you applied for adjustment of status, and you travel outside of the U.S. while your adjustment of status application is pending. **(Note:** Only unlawful presence that accrued on or after April 1, 1997, counts towards the 3-and 10-year bars under section 212 (a)(9) (B)(i) of the Act.)
- If you become inadmissible under section 212(a)(9)(B)(i) of the Act while your adjustment of status application is pending, you will need a waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act before your adjustment of status application can be approved. This waiver, however, is granted on a case-by-case basis and in the exercise of discretion. It requires a showing of extreme hardship to your U.S. citizen or lawful permanent resident spouse or parent, unless you are a refugee or asylee. For refugees and asylees, the waiver may be granted for humanitarian reasons, to assure family unity or if it is otherwise in the public interest.

**Penalties.** If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

**Privacy Act Notice.** We ask for the information on this form and associated evidence to determine if you have established eligibility for the immigration benefit you are seeking. Our legal right to ask for this information is in 8 USC 1255 and 1259. We may provide this information to other government agencies, including the Selective Service System. Your failure to provide this information on this form and any requested evidence may delay a final decision or result in denial of your application.

**Paperwork Reduction Act Notice.** A person is not required to respond to a collection of information unless it displays a current valid OMB number. We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is computed as follows: (1) 20 minutes to learn about the law and form; (2) 25 minutes to complete the form and (3) 270 minutes to assemble and file the application, including the required interview and travel time -- for a total estimated average of 5 hours and 15 minutes per application. If you have comments regarding the accuracy of this estimate or suggestions to make this form simpler, you should write to the Immigration and Naturalization Service, 425 I Street, N.W., Room 5307, Washington, D.C. 20536; OMB No. 1115-0053. **DO NOT MAIL YOUR COMPLETED APPLICATION TO THIS ADDRESS.**



U.S. Department of Justice  
Immigration and Naturalization Service

# Form I-485, Application to Register Permanent Resident or Adjust Status

## START HERE - Please Type or Print

### Part 1. Information About You.

Family Name	Given Name	Middle Initial
Address - C/O		
Street Number and Name		Apt. #
City		
State		Zip Code
Date of Birth (month/day/year)		Country of Birth
Social Security #		A # (if any)
Date of Last Arrival (month/day/year)		I-94 #
Current INS Status		Expires on (month/day/year)

### Part 2. Application Type. (check one)

#### I am applying for an adjustment to permanent resident status because:

- a. ☐ an immigrant petition giving me an immediately available immigrant visa number has been approved. (Attach a copy of the approval notice-- or a relative, special immigrant juvenile or special immigrant military visa petition filed with this application that will give you an immediately available visa number, if approved.)
- b. ☐ my spouse or parent applied for adjustment of status or was granted lawful permanent residence in an immigrant visa category that allows derivative status for spouses and children.
- c. ☐ I entered as a K-1 fiance(e) of a U.S. citizen whom I married within 90 days of entry, or I am the K-2 child of such a fiance(e). [Attach a copy of the fiance(e) petition approval notice and the marriage certificate.]
- d. ☐ I was granted asylum or derivative asylum status as the spouse or child of a person granted asylum and am eligible for adjustment.
- e. ☐ I am a native or citizen of Cuba admitted or paroled into the U.S. after January 1, 1959, and thereafter have been physically present in the U.S. for at least one year.
- f. ☐ I am the husband, wife or minor unmarried child of a Cuban described in (e) and am residing with that person, and was admitted or paroled into the U.S. after January 1, 1959, and thereafter have been physically present in the U.S. for at least one year.
- g. ☐ I have continuously resided in the U.S. since before January 1, 1972.
- h. ☐ Other basis of eligibility. Explain. (If additional space is needed, use a separate piece of paper.)

I am already a permanent resident and am applying to have the date I was granted permanent residence adjusted to the date I originally arrived in the U.S. as a nonimmigrant or parolee, or as of May 2, 1964, whichever date is later, and: (Check one)

- i. ☐ I am a native or citizen of Cuba and meet the description in (e), above.
- j. ☐ I am the husband, wife or minor unmarried child of a Cuban, and meet the description in (f), above.

#### FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
Applicant Interviewed	

#### Section of Law

- ☐ Sec. 209(b), INA  
☐ Sec. 13, Act of 9/11/57  
☐ Sec. 245, INA  
☐ Sec. 249, INA  
☐ Sec. 2 Act of 11/2/66  
☐ Sec. 2 Act of 11/2/66  
☐ Other \_\_\_\_\_

#### Country Chargeable

#### Eligibility Under Sec. 245

Approved Visa Petition  
 Dependent of Principal Alien  
 Special Immigrant  
 Other \_\_\_\_\_

#### Preference

#### Action Block

#### To be Completed by Attorney or Representative, if any

- ☐ Fill in box if G-28 is attached to represent the applicant.

VOLAG #

ATTY State License #

Continued on back

Part 3. Processing Information.

A. City/Town/Village of Birth	
Current Occupation	Your Mother's First Name
Give your name exactly how it appears on your Arrival /Departure Record (Form I-94)	

Place of Last Entry Into the U.S. (City/State)	Were you inspected by a U.S. Immigration Officer? <input type="checkbox"/> Yes <input type="checkbox"/> No	In what status did you last enter? (Visitor, student, exchange alien, crewman, temporary worker, without inspection, etc.)
Nonimmigrant Visa Number		
Consulate Where Visa Was Issued		

Date Visa Was Issued (month/day/year)	Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed
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Have you ever before applied for permanent resident status in the U.S.? ☐ No ☐ Yes If you checked "Yes," give date and place of filing and final disposition.

B. List your present husband/wife and all your sons and daughters. (If you have none, write "none." If additional space is needed, use a separate piece of paper.)

Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)	Applying with You? <input type="checkbox"/> Yes <input type="checkbox"/> No
Country of Birth	Relationship	# A		
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)	Applying with You? <input type="checkbox"/> Yes <input type="checkbox"/> No
Country of Birth	Relationship	# A		
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)	Applying with You? <input type="checkbox"/> Yes <input type="checkbox"/> No
Country of Birth	Relationship	# A		
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)	Applying with You? <input type="checkbox"/> Yes <input type="checkbox"/> No
Country of Birth	Relationship	# A		
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)	Applying with You? <input type="checkbox"/> Yes <input type="checkbox"/> No
Country of Birth	Relationship	# A		

C. List your present and past membership in or affiliation with every political organization, association, fund, foundation, party, club, society or similar group in the United States or in other places since your 16th birthday. Include any foreign military service in this part. If none, write "none." Include the name(s) of the organization(s), location(s), dates of membership from and to, and the nature of the organization (s). If additional space is needed, use a separate piece of paper.


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### Part 3. Processing Information. (Continued)

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Please answer the following questions. (If your answer is "Yes" to any one of these questions, explain on a separate piece of paper. Answering "Yes" does not necessarily mean that you are not entitled to adjust your status or register for permanent residence.)

1. Have you ever, in or outside the U. S.:
  - a. knowingly committed any crime of moral turpitude or a drug-related offense for which you have not been arrested? ☐ Yes ☐ No
  - b. been arrested, cited, charged, indicted, fined or imprisoned for breaking or violating any law or ordinance, excluding traffic violations? ☐ Yes ☐ No
  - c. been the beneficiary of a pardon, amnesty, rehabilitation decree, other act of clemency or similar action? ☐ Yes ☐ No
  - d. exercised diplomatic immunity to avoid prosecution for a criminal offense in the U. S.? ☐ Yes ☐ No
2. Have you received public assistance in the U.S. from any source, including the U.S. government or any state, county, city or municipality (other than emergency medical treatment), or are you likely to receive public assistance in the future? ☐ Yes ☐ No
3. Have you ever:
  - a. within the past ten years been a prostitute or procured anyone for prostitution, or intend to engage in such activities in the future? ☐ Yes ☐ No
  - b. engaged in any unlawful commercialized vice, including, but not limited to, illegal gambling? ☐ Yes ☐ No
  - c. knowingly encouraged, induced, assisted, abetted or aided any alien to try to enter the U.S. illegally? ☐ Yes ☐ No
  - d. illicitly trafficked in any controlled substance, or knowingly assisted, abetted or colluded in the illicit trafficking of any controlled substance? ☐ Yes ☐ No
4. Have you ever engaged in, conspired to engage in, or do you intend to engage in, or have you ever solicited membership or funds for, or have you through any means ever assisted or provided any type of material support to, any person or organization that has ever engaged or conspired to engage, in sabotage, kidnapping, political assassination, hijacking or any other form of terrorist activity? ☐ Yes ☐ No
5. Do you intend to engage in the U.S. in:
  - a. espionage? ☐ Yes ☐ No
  - b. any activity a purpose of which is opposition to, or the control or overthrow of, the government of the United States, by force, violence or other unlawful means? ☐ Yes ☐ No
  - c. any activity to violate or evade any law prohibiting the export from the United States of goods, technology or sensitive information? ☐ Yes ☐ No
6. Have you ever been a member of, or in any way affiliated with, the Communist Party or any other totalitarian party? ☐ Yes ☐ No
7. Did you, during the period from March 23, 1933 to May 8, 1945, in association with either the Nazi Government of Germany or any organization or government associated or allied with the Nazi Government of Germany, ever order, incite, assist or otherwise participate in the persecution of any person because of race, religion, national origin or political opinion? ☐ Yes ☐ No
8. Have you ever engaged in genocide, or otherwise ordered, incited, assisted or otherwise participated in the killing of any person because of race, religion, nationality, ethnic origin or political opinion? ☐ Yes ☐ No
9. Have you ever been deported from the U.S., or removed from the U.S. at government expense, excluded within the past year, or are you now in exclusion or deportation proceedings? ☐ Yes ☐ No
10. Are you under a final order of civil penalty for violating section 274C of the Immigration and Nationality Act for use of fraudulent documents or have you, by fraud or willful misrepresentation of a material fact, ever sought to procure, or procured, a visa, other documentation, entry into the U.S. or any immigration benefit? ☐ Yes ☐ No
11. Have you ever left the U.S. to avoid being drafted into the U.S. Armed Forces? ☐ Yes ☐ No
12. Have you ever been a J nonimmigrant exchange visitor who was subject to the two-year foreign residence requirement and not yet complied with that requirement or obtained a waiver? ☐ Yes ☐ No
13. Are you now withholding custody of a U.S. citizen child outside the U.S. from a person granted custody of the child? ☐ Yes ☐ No
14. Do you plan to practice polygamy in the U.S.? ☐ Yes ☐ No

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Continued on back

Form I-485 (Rev. 02/07/00)N Page 3



**Part 4. Signature.** (Read the information on penalties in the instructions before completing this section. You must file this application while in the United States.)

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it is all true and correct. I authorize the release of any information from my records which the INS needs to determine eligibility for the benefit I am seeking.

**Selective Service Registration.** The following applies to you if you are a man at least 18 years old, but not yet 26 years old, who is required to register with the **Selective Service System**: I understand that my filing this adjustment of status application with the Immigration and Naturalization Service authorizes the INS to provide certain registration information to the Selective Service System in accordance with the Military Selective Service Act. Upon INS acceptance of my application, I authorize INS to transmit to the Selective Service System my name, current address, Social Security number, date of birth and the date I filed the application for the purpose of recording my Selective Service registration as of the filing date. If, however, the INS does not accept my application, I further understand that, if so required, I am responsible for registering with the Selective Service by other means, provided I have not yet reached age 26.

**Signature** **Print Your Name** **Date** **Daytime Phone Number**

**Please Note:** If you do not completely fill out this form or fail to submit required documents listed in the instructions, you may not be found eligible for the requested benefit and this application may be denied.

**Part 5. Signature of Person Preparing Form, If Other Than Above. (Sign Below)**

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

**Signature** **Print Your Name** **Date** **Daytime Phone Number**

**Firm Name** **and Address**

**Supplement A to Form I-485**  
**Adjustment of Status Under Section 245(i)**

*Only use this form if you are applying to the Bureau of Citizenship and Immigration Services (BCIS) to adjust status to that of a lawful permanent resident under section 245(i) of the Immigration and Nationality Act. The BCIS is comprised of offices of the former Immigration and Naturalization Service.*

**What Is the Purpose of This Form?**

Section 245 of the Immigration and Nationality Act (the Act) allows the Attorney General, in his or her discretion, to adjust the status of an alien to that of a lawful permanent resident (LPR), in lieu of consular visa processing, while the alien remains in the United States. In order to be eligible, the alien must have been inspected and admitted or paroled, be eligible for an immigrant visa and admissible for permanent residence, have an immigrant visa immediately available and, with some exceptions, have maintained lawful nonimmigrant status. The alien must also not have engaged in unauthorized employment and must not be ineligible to adjust status under section 245(c) of the Act. **If you meet all of these requirements, you do not have to submit this form when applying for adjustment of status to that of LPR.**

Section 245(i) of the Act allows certain aliens to file for adjustment of status upon payment of a penalty fee of \$1,000, even though some of the conditions required by section 245(a) and (c) of the Act are not met. **Aliens in the United States who have an immigrant visa immediately available, but who entered the United States without inspection, remained in the United States past the period of admission, worked unlawfully, or are otherwise ineligible for adjustment of status under section 245(c) of the Act must submit this form along with Form I-485, Application to Register Permanent Residence or Adjust Status.**

**NOTE:** If you are applying to adjust as the spouse or unmarried minor child of a U.S. citizen or the parent of a U.S. citizen child at least 21 years of age, and if you were inspected and lawfully admitted to the United States other than in C-1 or S nonimmigrant status, you do not need to file this form.

**Who May Use Supplement A to Adjust Status to That of LPR Under Section 245(i)?**

You may apply for adjustment of status to that of LPR under section 245(i) if you:

- are physically present in the United States when the application is submitted; and
- have an immigrant visa number immediately available; and
- are admissible to the United States for permanent residence; and
- are the beneficiary of an approvable-when-filed visa petition, or an application for labor certification filed on or before April 30, 2001; and
- pay a \$1,000 fee (unless exempted).

In addition, the alien must fall within one of the below categories:

- alien crewmen;
- aliens who work without authorization;
- aliens in unlawful immigrant status;
- aliens who fail to continuously maintain a lawful status since entry into the United States;
- aliens who were admitted in transit without visa;
- aliens admitted as nonimmigrant visitors under section 212(l) of the Act or under the Visa Waiver Program;
- aliens admitted as nonimmigrant described in section 101(a)(15)(S) of the Act; or
- aliens seeking employment-based adjustment of status who are not in lawful nonimmigrant status.

**What Documentation Must You Include If You Are Submitting This Form With Form I-485?**

You do not need to submit documentation in addition to the documentation required by the instructions to Form I-485 unless you are the beneficiary of a visa petition or application for labor certification properly filed on your behalf after January 14, 1998, and on or before April 30, 2001. **Aliens using section 245(i) because they are beneficiaries of a visa petition or application for labor certification filed after January 14, 1998, and on or before April 30, 2001, should submit documentation along with this form that demonstrates physical presence in the United States on December 21, 2000.**

**What Documentation Demonstrates Your Physical Presence on December 21, 2000?**

Documentation of your physical presence in the United States on December 21, 2000, can consist of federal, state or local government-issued documents or other documents establishing your physical presence on that date. If one document does not establish your physical presence, you should submit documentation establishing your physical presence in the United States prior to and after December 21, 2000. In some cases, a single document may suffice to establish the applicant's physical presence on December 21, 2000. In most cases, however, the alien may need to submit several documents, because most applicants may not possess documentation that contains the exact date of December 21, 2000. In such instances, the applicant should submit sufficient documentation establishing the applicant's physical presence in the United States prior to, and after December 21, 2000. If you submit affidavits, they should be accompanied by supporting documentation. The BCIS will evaluate all documentation on a case-by-case basis.

**Who Does Not Need to Use Supplement A to Form I-485?**

You do not have to submit Supplement A to Form I-485 if you:

- are already an LPR; or
  - have continuously maintained lawful immigration status in the United States since November 5, 1986; or
  - are applying to adjust status as the spouse or unmarried minor child of a United States citizen or the parent of a United States citizen child at least 21 years of age, and you were inspected and lawfully admitted to the United States other than in C-1 or S nonimmigrant status.
- In addition, you do not have to submit Supplement A to Form I-485, if you are filing for an immigration benefit other than adjustment of status to that of LPR or if you are applying for adjustment of status to that of LPR because you:
- were granted asylum in the United States; or
  - have continuously resided in the United States since January 1, 1972; or
  - entered as a K-1 fiancé(e) of a United States citizen; or
  - have an approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, and are applying for adjustment as a special immigrant juvenile court dependent, or as a special immigrant who has served in the United States armed forces, or as a battered spouse or child; or
  - are a special immigrant retired international organization employee or family member; or
  - are a special immigrant physician; or
  - are a public interest parolee, who was denied refugee status, and is from the former Soviet Union, Vietnam, Laos or Cambodia (a "Lauteberg Parolee" under Public Law 101-167); or
  - are eligible under the Immigration Nursing Relief Act.

**What Is the Filing Fee for the Supplement A to Form I-485 and Form I-485 Filed Together?**

The total fee for this form when filed along with Form I-485 is:

- \$ 255 Fee required with Form I-485
- \$ 50 Fingerprint Service Fee. (Applicants younger than 14 or older than 79 do not have to pay this fee.)
- \$ 1,000 Fee required with Supplement A to Form I-485

If you filed Form I-485 separately, attach a copy of your filing receipt and pay only the additional sum of \$1,000.

There are two categories of applicants who do not need to pay the \$1,000 fee associated with Supplement A to Form I-485:

1. applicants under the age of 17 years; and
2. applicants who are an unmarried son or daughter of a legalized alien and less than 21 years of age or the spouse of a legalized alien, and have attached a copy of a receipt or an approval notice for a properly filed Form I-817, Application for Voluntary Departure under the Family Unity Program.

**Where Should You File This Form?**

You must file this form at the same location where you must file the related Form I-485.

## What Are the Penalties for Perjury?

All statements contained in response to questions in this application are declared to be true and correct under penalty of perjury. Title 18 of the United States Code, Section 1546, provides in part:

Whoever knowingly makes under oath, or as permitted under penalty of perjury under 1746 of Title 28 of the United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit or other document containing any such false statement--shall be fined in accordance with this title or imprisoned not more than five years, or both.

## What Is Our Authority for Collecting This Information?

We request the information on the form to carry out the immigration laws contained in Title 8 of the United States Code, Section 1154(a). We need this information to determine whether you are eligible for immigration benefits. The information you provide may also be disclosed to other Federal, state, local and foreign law enforcement and regulatory agencies. Furnishing this information on this form is voluntary. However, if you do not give some or all of the information, your application may be denied.

## Paperwork Reduction Act Notice.

An agency may not conduct or sponsor an information collection and a person is not required to respond to an information collection unless it contains a currently valid OMB control number. We try to create forms that are accurate, can easily be understood and that impose the least possible burden on you to provide us with the information. Often this is difficult because some immigration laws are very complex. The public reporting burden for this information collection beyond the time to complete the parent form is estimated to average 13 minutes which includes learning about the form and understanding the instructions; collecting the necessary supporting documents; completing the form; and traveling to and waiting at a preparer's office (e.g., attorney or voluntary agency). If you have comments regarding the accuracy of this estimate or suggestions for making this form simpler, you can write to the Bureau of Citizenship and Immigration Services, 425 I Street, N.W., Room 4034, Washington, DC 20536; OMB No. 1615-0023. **DO NOT MAIL YOUR COMPLETED APPLICATION TO THIS ADDRESS.**

## Checklist.

- ☐ I have signed the form at Part E.
- ☐ I have included the appropriate fee (if any) as determined by Part D.
- ☐ If I checked box b or box d in question 1, Part B. I have included evidence of my physical presence in the United States on December 21, 2000.





U.S. Department of Homeland Security  
Bureau of Citizenship Immigration and Service

**Supplement A to Form I-485**  
**Adjustment of Status Under Section 245(i)**

Only use this form if you are applying to adjust status to that of a lawful permanent resident under Section 245(i) of the Immigration and Nationality Act.

Part A. Information about you.			BCIS Use Only
Last Name <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	First Name <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	Middle Name <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	
Address: In Care Of <div style="border: 1px solid black; height: 20px; width: 100%;"></div>			
Street Number and Name <div style="border: 1px solid black; height: 20px; width: 100%;"></div>		Apt. # <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	
City <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	State <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	Zip Code <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	
Alien Registration Number (A #) if any <div style="border: 1px solid black; height: 20px; width: 100%;"></div>		Date of Birth (mm/dd/yyyy) <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	
Country of Birth <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	Country of Citizenship/Nationality <div style="border: 1px solid black; height: 20px; width: 100%;"></div>		

**Part B. Eligibility. (Check the correct response.)**

**1. I am filing Supplement A to Form I-485 because:**

- a. ☐ I am the beneficiary of a visa petition filed on or before January 14, 1998.
- b. ☐ I am the beneficiary of a visa petition filed on or after January 15, 1998, and on or before April 30, 2001.
- c. ☐ I am the beneficiary of an application for a labor certification filed on or before January 14, 1998.
- d. ☐ I am the beneficiary of an application for a labor certification filed on or after January 15, 1998, and on or before April 30, 2001.

*If you checked box b or d on question one, you must submit evidence demonstrating that you were physically present in the United States on December 21, 2000.*

**2. And I fall into one or more of these categories: (Check all that apply to you.)**

- a. ☐ I entered the United States as an alien crewman;
- b. ☐ I have accepted employment without authorization;
- c. ☐ I am in unlawful immigration status because I entered the United States without inspection or I remained in the United States past the expiration of the period of my lawful admission;
- d. ☐ I have failed (except through no fault of my own or for technical reasons) to maintain, continuously, lawful status;
- e. ☐ I was admitted to the United States in transit without a visa;
- f. ☐ I was admitted as a nonimmigrant visitor without a visa;
- g. ☐ I was admitted to the United States as a nonimmigrant in the S classification; or
- h. ☐ I am seeking employment-based adjustment of status and am not in lawful nonimmigrant status.

**Part C. Additional eligibility information.**

**1. Are you applying to adjust status based on any of the below reasons?**

- a. You were granted asylum in the United States;
- b. You have continuously resided in the United States since January 1, 1972;
- c. You entered as a K-1 fiancé(e) of a United States citizen;
- d. You have an approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, and are applying for adjustment as a special immigrant juvenile court dependent or a special immigrant who has served in the United States armed forces, or a battered spouse or child;
- e. You are a native or citizen of Cuba, or the spouse or child of such alien, who was not lawfully inspected or admitted to the United States;
- f. You are a special immigrant retired international organization employee or family member;
- g. You are a special immigrant physician;

- h. You are a public interest parolee, who was denied refugee status, and are from the former Soviet Union, Vietnam, Laos or Cambodia (a "Lautenberg Parolee" under Public Law 101-167); or
- i. You are eligible under the Immigration Nursing Relief Act.

- ☐ NO. I am not applying for adjustment of status for any of these reasons. (Go to next question.)
- ☐ YES. I am applying for adjustment of status for any one of these reasons. (If you answered "YES", do not file this form.)

### Part C. Additional eligibility information (Continued).

#### 2. Do any of the following conditions describe you?

- a. You are already a lawful permanent resident of the United States.
- b. You have continuously maintained lawful immigration status in the United States since November 5, 1986.
- c. You are applying to adjust status as the spouse or unmarried minor child of a United States citizen or the parent of a U.S. citizen child at least 21 years of age, and you were inspected and lawfully admitted to the United States.

- ☐ NO. None of these conditions describe me. (Go to next question.)

- ☐ YES. If you answered "YES", do not file this form.

### Part D. Fees.

#### Aliens filing this form with Form I-485\* need to pay the following fees:

\$ 255 Fee required with Form I-485 and

\$ 50 Fingerprint Service Fee. (Applicants younger than 14 or older than 79 years of age do not have to pay this fee.)

\$ 1,000 Fee required with Supplement A to Form I-485

If you filed Form I-485 separately, attach a copy of your filing receipt and pay only the additional sum of \$1,000.

There are two categories of applicants using this form who do not need to pay the \$1,000 fee:

1. applicants under the age of 17 years; and

2. applicants who are an unmarried son or daughter of a legalized alien and less than 21 years of age or the spouse of a legalized alien, and have attached a copy of a receipt or an approval notice showing that a Form I-817, Application for Voluntary Departure under the Family Unity Program, has been properly filed.

### Part E. Signature. Read the information on penalties in the instructions before completing this section.

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it is all true and correct. I authorize the release of any information from my records which the Bureau of Citizenship and Immigration Services needs to determine eligibility for the benefit being sought.

Signature

Print Name

Date

### Part F. Signature of person preparing form, if other than above. Read the information on penalties in the instructions before completing this section.

I certify, under penalty of perjury under the laws of the United States of America, that I prepared this form at the request of the above person and that to the best of my knowledge the contents of this application are all true and correct.

Signature

Print Name

Date

Firm Name and Address

Daytime Phone Number (Area Code and Number)

Fax Number (Area Code and Number)

# Medical Examination of Aliens Seeking Adjustment of Status

U.S. Department of Justice  
Immigration and Naturalization Service

## Instructions to Alien Applying for Adjustment of Status

A medical examination is necessary as part of your application for adjustment of status. Please communicate immediately with one of the physicians on the attached list to arrange for your medical examination, which must be completed before your status can be adjusted. The purpose of the medical examination is to determine if you have certain health conditions which may need further follow-up. The information requested is required in order for a proper evaluation to be made of your health status. The results of your examination will be provided to an Immigration officer and may be shared with health departments and other public health or cooperating medical authorities. All expenses in connection with this examination must be paid by you.

The examining physician may refer you to your personal physician or a local public health department and you must comply with some health follow-up or treatment recommendations for certain health conditions before your status will be adjusted.

This form should be presented to the examining physician. You must sign the form in the presence of the examining physician. *The law provides severe penalties for knowingly and willfully falsifying or concealing a material fact or using any false documents in connection with this medical examination. The medical examination must be completed in order for us to process your application.*

## Medical Examination and Health Information

A medical examination is necessary as part of your application for adjustment of status. You should go for your medical examination as soon as possible. You will have to choose a doctor from a list you will be given. The list will have the names of doctors or clinics in your area that have been approved by the Immigration and Naturalization Service for this examination. You must pay for the examination. If you become a temporary legal resident and later apply to become a permanent resident, you may need to have another medical examination at that time.

The purpose of the medical examination is to find out if you have certain health conditions which may need further follow-up. The doctor will examine you for certain physical and mental health conditions. You will have to take off your clothes. If you need more tests because of a condition found during your medical examination, the doctor may send you to your own doctor or to the local public health department. For some conditions, before you can become a temporary or permanent resident, you will have to show that you have followed the doctor's advice to get more tests or take treatment.

If you have any records of immunizations (vaccinations), you should bring them to show to the doctor. This is especially important for pre-school and school-age children. The doctor will tell you if any more immunizations are needed, and where you can get them (usually at your local public health department). It is important for your health that you follow the doctor's advice and go to get any immunizations.

One of the conditions you will be tested for is tuberculosis. If you are 15 years of age or older, you will be required to have a chest X-ray examination. **Exception:** If you are pregnant or applying for adjustment of status under the Immigration Reform and Control Act of 1986, you may choose to have either a chest X-ray or a tuberculin skin test. If you choose the skin test you will have to return in 2 - 3 days to have it checked. If you do not have any reaction to the skin test, you will not need any more tests for tuberculosis. If you do have any reaction to the skin test, you will also need to have a chest X-ray examination. If the doctor thinks you are infected with tuberculosis, you may have to go to the local health department and more tests may have to be done. The doctor will explain these to you.

If you are 14 years of age or younger, you will not need to have a test for tuberculosis, unless a member of your immediate family has chest X-ray findings that may be tuberculosis. If you are in this age group and you do have to be tested for tuberculosis, you may choose either the chest X-ray or the skin test.

You must also have a blood test for syphilis if you are 15 years of age or older.

You will also be tested to see if you have the human immuno-deficiency virus (HIV) infection. This virus is the cause of AIDS. If you have this virus, it may damage your body's ability to fight off other diseases. The blood test you will take will tell if you have been exposed to this virus.

## Instructions to Physician Performing the Examination

Please medically examine for adjustment of status the individual presenting this form. The medical examination should be performed according to the U.S. Public Health Service "Guidelines for Medical Examination of Aliens in the United States" and Supplements, which have been provided to you separately.

If the applicant is free of medical defects listed in Section 212(a) of the Immigration and Nationality Act, endorse the form in the space provided. While in your presence, the applicant must also sign the form in the space provided. You should retain one copy for your files and return all other copies in a sealed envelope to the applicant for presentation at the immigration interview.

If the applicant has a health condition which requires follow-up as specified in the "Guidelines for Medical Examination of Aliens in the United States" and Supplements, complete the referral information on the pink copy of the medical examination form, and advise the applicant that appropriate follow-up must be obtained before medical clearance can be granted. Retain the blue copy of the form for your files and return all other copies to the applicant in a sealed envelope. The applicant should return to you when the necessary follow-up has been completed for your final verification and signature. *Do not* sign the form until the applicant has met health follow-up requirements. All medical documents, including chest X-ray films if a chest X-ray examination was performed, should be returned to the applicant upon final medical clearance.

### Instructions to Physician Providing Health Follow-Up

The individual presenting this form has been found to have a medical condition(s) requiring resolution before medical clearance for adjustment of status can be granted. Please evaluate the applicant for the condition(s) identified.

The requirements for clearance are outlined on the reverse of this page. When the individual has completed clearance requirements, please sign the form in the space provided and return the medical examination form to the applicant.

### Paperwork Reduction Act Notice.

The authority for collection of the information requested on this form is contained in 8 U.S.C. 1182, 1183A, 1184(a), 1252, 1255 and 1258. The information will be used principally by the Immigration and Naturalization Service to whom it may be furnished to support an individual's application for adjustment of status under the Immigration and Nationality Act. Submission of the information is voluntary. It may also, as a matter of routine use, be disclosed to other federal, state, local and foreign law enforcement and regulatory agencies. Failure to provide the necessary information may result in the denial of the applicant's request.

### Privacy Act Notice.

An agency may not conduct or sponsor an information collection and a person is not required to respond to an OMB control number. We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is 90 minutes per application. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you may write to the Immigration and Naturalization Service, Regulations and Forms Services Division, 425 I Street, N.W., Suite 4034, Washington, DC 20536; OMB No. 1115-01234. *(Do not mail your completed application to this address.)*

**Medical Examination of Aliens  
Seeking Adjustment of Status**

(Please type or print clearly)

***I certify that on the date shown I examined:***

1. Name (Last in CAPS)

(First)

(Middle Initial)

2. Address (Street number and name)

(Apt. number)

(City)

(State)

(Zip Code)

3. File number (A number)

4. Sex

☐ Male☐ Female

5. Date of birth (MM/DD/YYYY)

6. Country of birth

7. Date of examination (MM/DD/YYYY)

**General Physical Examination: I examined specifically for evidence of the conditions listed below. My examination revealed:**☐ No apparent defect, disease or disability.☐ The conditions listed below were found (check all boxes that apply).***Class A Conditions***☐ Chancroid☐ Chronic alcoholism☐ Gonorrhea☐ Granuloma inguinale☐ Hansen's disease, infectious☐ HIV infection☐ Insanity☐ Lymphogranuloma venereum☐ Mental defect☐ Mental retardation☐ Narcotic drug addiction☐ Previous occurrence of one  
or more attacks of insanity☐ Psychopathic personality☐ Sexual deviation☐ Syphilis, infectious☐ Tuberculosis, active☐ Other physical defect, disease or disability (specify below).***Class B Conditions***☐ Hansen's disease, not infectious☐ Tuberculosis, not active**Examination for Tuberculosis - Tuberculin Skin Test**☐ Reaction \_\_\_\_\_mm☐ No reaction☐ Not Done

Doctor's name (please print)

Date read

**Examination for Tuberculosis - Chest X-Ray Report**☐ Abnormal☐ Normal☐ Not done

Doctor's name (please print)

Date read

**Serologic Test for Syphilis**☐ Reactive Titer (confirmatory test performed)☐ Nonreactive

Test Type

Doctor's name (please print)

Date read

**Serologic Test for HIV Antibody**☐ Positive (confirmed by Western blot)☐ Negative

Test Type

Doctor's name (please print)

Date read

**Immunization Determination (DTP, OPV, MMR, Td-Refer to *PHS Guidelines* for recommendations.)**☐ Applicant is current for recommended age-specific  
immunizations.☐ Applicant is not current for recommended age-specific  
immunizations and I have encouraged that appropriate  
immunizations be obtained.**REMARKS:****Civil Surgeon Referral for Follow-Up of Medical Condition**☐ The alien named above has applied for adjustment of status. A medical examination conducted by me identified the conditions above which require resolution before medical clearance is granted or for which the alien may seek medical advice. Please provide follow-up services or refer the alien to an appropriate health care provider. The actions necessary for medical clearance are detailed on the reverse of this form.**Follow-Up Information:**

The alien named above has complied with the recommended health follow-up.

Doctor's name and address (please type or print clearly)

Doctor's signature

Date

**Application Certification**

I certify that I understand the purpose of the medical examination, I authorize the required tests to be completed, and the information on this form refers to me.

Signature

Date

**Civil Surgeon Certification:**

My examination showed the applicant to have met the medical examination and health follow-up requirements for adjustment of status.

Doctor's name address (please type or print clearly)

Doctor's signature

Date



## Medical Clearance Requirements for Aliens Seeking Adjustment of Status

Medical Condition	Estimate Time For Clearance	Action Required
<i>*Suspected Mental Conditions</i>	5 - 30 Days	The applicant must provide to a civil surgeon a psychological or psychiatric evaluation from a specialist or medical facility for final classification and clearance.
<i>Tuberculin Skin Test Reaction and Normal Chest X-Ray or Abnormal Chest X-Ray</i>	Immediate	The applicant should be encouraged to seek further medical evaluation for possible preventive treatment.
<i>Tuberculin Skin Test Reaction and Abnormal Chest X-Ray (Inactive)(Class B)</i>	10 - 30 Days	The applicant should be referred to a physician or local health department for further evaluation. Medical clearance may not be granted until the applicant returns to the civil surgeon with documentation of medical evaluation for tuberculosis.
<i>Tuberculin Skin Test Reaction and Abnormal Chest X-Ray (Active of Suspected or Abnormal Chest X-Ray and Abnormal Chest X-Ray Skin Test Reaction)</i>	10 - 300 Days	The applicant should obtain an appointment with physical or local health department. If treatment for active disease is started, it must be completed (usually 9 months) before a medical clearance may be granted. At the completion of treatment, the applicant must present to the civil surgeon documentation of completion. If treatment is not started, the applicant must present to the civil surgeon documentation of medical evaluation for tuberculosis.
<i>Hansen's Disease</i>	30 - 210 Days	Obtain an evaluation from a specialist or Hansen's disease clinic. If the disease is indeterminate or Tuberculoïd, the applicant must present to the civil surgeon documentation of medical evaluation. If disease is Lepromatous or Borderline (dimorphous) and treatment is started, the applicant must complete at least 6 months and present documentation to the civil surgeon showing adequate supervision, treatment and clinical response before a medical clearance is granted.
<i>**Venereal Diseases</i>	1 - 30 Days	Obtain an appointment with a physician or local public health department. An applicant with a reactive serologic test for syphilis must provide to the civil surgeon documentation of evaluation for treatment. If any of the venereal diseases are infectious, the applicant must present to the civil surgeon documentation of completion of treatment.
<i>Immunizations Incomplete</i>	Immediate	Immunizations are not required, but the applicant should be encouraged to go to a physician or local health department for appropriate immunizations.
<i>HIV Infection</i>	Immediate	Post-test counseling is not required, but the applicant should be encouraged to seek appropriate post-test counseling.
<i>*Mental retardation; insanity; previous attack of insanity; psychopathic personality; sexual deviation or mental defect; narcotic drug addition; and chronic alcoholism.</i>		
<i>**Chancroid; gonorrhea; granuloma inguinale; lymphogranuloma venereum; and syphilis.</i>		

**Medical Examination of Aliens  
Seeking Adjustment of Status**

(Please type or print clearly)

***I certify that on the date shown I examined:***

1. Name (Last in CAPS)

(First)

(Middle Initial)

2. Address (Street number and name)

(Apt. number)

(City)

(State)

(Zip Code)

3. File number (A number)

4. Sex

☐ Male☐ Female

5. Date of birth (MM/DD/YYYY)

6. Country of birth

7. Date of examination (MM/DD/YYYY)

**General Physical Examination: I examined specifically for evidence of the conditions listed below. My examination revealed:**☐ No apparent defect, disease or disability.☐ The conditions listed below were found (check all boxes that apply).***Class A Conditions***☐ Chancroid☐ Chronic alcoholism☐ Gonorrhea☐ Granuloma inguinale☐ Hansen's disease, infectious☐ HIV infection☐ Insanity☐ Lymphogranuloma venereum☐ Mental defect☐ Mental retardation☐ Narcotic drug addiction☐ Previous occurrence of one  
or more attacks of insanity☐ Psychopathic personality☐ Sexual deviation☐ Syphilis, infectious☐ Tuberculosis, active***Class B Conditions***☐ Hansen's disease, not infectious☐ Tuberculosis, not active**Examination for Tuberculosis - Tuberculin Skin Test**☐ Reaction \_\_\_\_\_mm☐ No reaction☐ Not Done

Doctor's name (please print)

Date read

**Examination for Tuberculosis - Chest X-Ray Report**☐ Abnormal☐ Normal☐ Not done

Doctor's name (please print)

Date read

**Serologic Test for Syphilis**☐ Reactive Titer (confirmatory test performed)☐ Nonreactive

Test Type

Doctor's name (please print)

Date read

**Serologic Test for HIV Antibody**☐ Positive (confirmed by Western blot)☐ Negative

Test Type

Doctor's name (please print)

Date read

**Immunization Determination (DTP, OPV, MMR, Td-Refer to *PHS Guidelines* for recommendations.)**☐ Applicant is current for recommended age-specific  
immunizations.☐ Applicant is not current for recommended age-specific  
immunizations and I have encouraged that appropriate  
immunizations be obtained.**REMARKS:****Civil Surgeon Referral for Follow-Up of Medical Condition**☐ The alien named above has applied for adjustment of status. A medical examination conducted by me identified the conditions above which require resolution before medical clearance is granted or for which the alien may seek medical advice. Please provide follow-up services or refer the alien to an appropriate health care provider. The actions necessary for medical clearance are detailed on the reverse of this form.**Follow-Up Information:**

The alien named above has complied with the recommended health follow-up.

Doctor's name and address (please type or print clearly)

Doctor's signature

Date

**Application Certification**

I certify that I understand the purpose of the medical examination, I authorize the required tests to be completed, and the information on this form refers to me.

Signature

Date

**Civil Surgeon Certification:**

My examination showed the applicant to have met the medical examination and health follow-up requirements for adjustment of status.

Doctor's name address (please type or print clearly)

Doctor's signature

Date

**CIVIL SURGEON**

Form I-693 (Rev. 04/25/02) Y Page 3

## Medical Clearance Requirements for Aliens Seeking Adjustment of Status

Medical Condition	Estimate Time For Clearance	Action Required
<i>*Suspected Mental Conditions</i>	5 - 30 Days	The applicant must provide to a civil surgeon a psychological or psychiatric evaluation from a specialist or medical facility for final classification and clearance.
<i>Tuberculin Skin Test Reaction and Normal Chest X-Ray or Abnormal Chest X-Ray</i>	Immediate	The applicant should be encouraged to seek further medical evaluation for possible preventive treatment.
<i>Tuberculin Skin Test Reaction and Abnormal Chest X-Ray (Inactive/Class B)</i>	10 - 30 Days	The applicant should be referred to a physician or local health department for further evaluation. Medical clearance may not be granted until the application returns to the civil surgeon with documentation of medical evaluation for tuberculosis.
<i>Tuberculin Skin Test Reaction and Abnormal Chest X-Ray (Active of Suspected Active/Class A)</i>	10 - 300 Days	The applicant should obtain an appointment with physical or local health department. If treatment for active disease is started, it must be completed (usually 9 months) before a medical clearance may be granted. At the completion of treatment, the applicant must present to the civil surgeon documentation of completion. If treatment is not started, the applicant must present to the civil surgeon documentation of medical evaluation for tuberculosis.
<i>Hansen's Disease</i>	30 - 210 Days	Obtain an evaluation from a specialist or Hansen's disease clinic. If the disease is indeterminate or Tuberculoïd, the applicant must present to the civil surgeon documentation of medical evaluation. If disease is Lepromatous or Borderline (dimorphous) and treatment is started, the applicant must complete at least 6 months and present documentation to the civil surgeon showing adequate supervision, treatment and clinical response before a medical clearance is granted.
<i>**Venereal Diseases</i>	1 - 30 Days	Obtain an appointment with a physician or local public health department. An applicant with a reactive serologic test for syphilis must provide to the civil surgeon documentation of evaluation for treatment. If any of the venereal diseases are infectious, the applicant must present to the civil surgeon documentation of completion of treatment.
<i>Immunizations Incomplete</i>	Immediate	Immunizations are not required, but the applicant should be encouraged to go to a physician or local health department for appropriate immunizations.
<i>HIV Infection</i>	Immediate	Post-test counseling is not required, but the applicant should be encouraged to seek appropriate post-test counseling.
<i>*Mental retardation; insanity; previous attack of insanity; psychopathic personality; sexual deviation or mental defect; narcotic drug addition; and chronic alcoholism.</i>		
<i>**Chancroid; gonorrhea; granuloma inguinale; lymphogranuloma venereum; and syphilis.</i>		

**Medical Examination of Aliens  
Seeking Adjustment of Status**

(Please type or print clearly)

***I certify that on the date shown I examined:***

1. Name (Last in CAPS)

(First)

(Middle Initial)

2. Address (Street number and name)

(Apt. number)

(City)

(State)

(Zip Code)

3. File number (A number)

4. Sex

☐ Male☐ Female

5. Date of birth (MM/DD/YYYY)

6. Country of birth

7. Date of examination (MM/DD/YYYY)

**General Physical Examination: I examined specifically for evidence of the conditions listed below. My examination revealed:**☐ No apparent defect, disease or disability.☐ The conditions listed below were found (check all boxes that apply).***Class A Conditions***☐ Chancroid☐ Chronic alcoholism☐ Gonorrhea☐ Granuloma inguinale☐ Hansen's disease, infectious☐ HIV infection☐ Insanity☐ Lymphogranuloma venereum☐ Mental defect☐ Mental retardation☐ Narcotic drug addiction☐ Previous occurrence of one or more attacks of insanity☐ Psychopathic personality☐ Sexual deviation☐ Syphilis, infectious☐ Tuberculosis, active***Class B Conditions***☐ Hansen's disease, not infectious☐ Tuberculosis, not active**Examination for Tuberculosis - Tuberculin Skin Test**☐ Reaction \_\_\_\_\_mm☐ No reaction ☐ Not Done

Doctor's name (please print)

Date read

**Examination for Tuberculosis - Chest X-Ray Report**☐ Abnormal☐ Normal☐ Not done

Doctor's name (please print)

Date read

**Serologic Test for Syphilis**☐ Reactive Titer (confirmatory test performed)☐ Nonreactive

Test Type

Doctor's name (please print)

Date read

**Serologic Test for HIV Antibody**☐ Positive (confirmed by Western blot)☐ Negative

Test Type

Doctor's name (please print)

Date read

**Immunization Determination** (DTP, OPV, MMR, Td-Refer to ***PHS Guidelines*** for recommendations.)☐ Applicant is current for recommended age-specific immunizations.☐ Applicant is not current for recommended age-specific immunizations and I have encouraged that appropriate immunizations be obtained.**REMARKS:****Civil Surgeon Referral for Follow-Up of Medical Condition**☐ The alien named above has applied for adjustment of status. A medical examination conducted by me identified the conditions above which require resolution before medical clearance is granted or for which the alien may seek medical advice. Please provide follow-up services or refer the alien to an appropriate health care provider. The actions necessary for medical clearance are detailed on the reverse of this form.**Follow-Up Information:**

The alien named above has complied with the recommended health follow-up.

Doctor's name and address (please type or print clearly)

Doctor's signature

Date

**Application Certification**

I certify that I understand the purpose of the medical examination, I authorize the required tests to be completed, and the information on this form refers to me.

Signature

Date

**Civil Surgeon Certification:**

My examination showed the applicant to have met the medical examination and health follow-up requirements for adjustment of status.

Doctor's name address (please type or print clearly)

Doctor's signature

Date

## Medical Clearance Requirements for Aliens Seeking Adjustment of Status

Medical Condition	Estimate Time For Clearance	Action Required
<i>*Suspected Mental Conditions</i>	5 - 30 Days	The applicant must provide to a civil surgeon a psychological or psychiatric evaluation from a specialist or medical facility for final classification and clearance.
<i>Tuberculin Skin Test Reaction and Normal Chest X-Ray or Abnormal Chest X-Ray</i>	Immediate	The applicant should be encouraged to seek further medical evaluation for possible preventive treatment.
<i>Tuberculin Skin Test Reaction and Abnormal Chest X-Ray (Inactive/Class B)</i>	10 - 30 Days	The applicant should be referred to a physician or local health department for further evaluation. Medical clearance may not be granted until the applicant returns to the civil surgeon with documentation of medical evaluation for tuberculosis.
<i>Tuberculin Skin Test Reaction and Abnormal Chest X-Ray (Active of Suspected or Active/Class A)</i>	10 - 300 Days	The applicant should obtain an appointment with physical or local health department. If treatment for active disease is started, it must be completed (usually 9 months) before a medical clearance may be granted. At the completion of treatment, the applicant must present to the civil surgeon documentation of completion. If treatment is not started, the applicant must present to the civil surgeon documentation of medical evaluation for tuberculosis.
<i>Hansen's Disease</i>	30 - 210 Days	Obtain an evaluation from a specialist or Hansen's disease clinic. If the disease is indeterminate or Tuberculoïd, the applicant must present to the civil surgeon documentation of medical evaluation. If disease is Leptromotous of Borderline (dimorphous) and treatment is started, the applicant must complete at least 6 months and present documentation to the civil surgeon showing adequate supervision, treatment and clinical response before a medical clearance is granted.
<i>**Venereal Diseases</i>	1 - 30 Days	Obtain an appointment with a physician or local public health department. An applicant with a reactive serologic test for syphilis must provide to the civil surgeon documentation of evaluation for treatment. If any of the venereal diseases are infectious, the applicant must present to the civil surgeon documentation of completion of treatment.
<i>Immunizations Incomplete</i>	Immediate	Immunizations are not required, but the applicant should be encouraged to go to a physician or local health department for appropriate immunizations.
<i>HIV Infection</i>	Immediate	Post-test counseling is not required, but the applicant should be encouraged to seek appropriate post-test counseling.
<i>*Mental retardation; insanity; previous attack of insanity; psychopathic personality; sexual deviation or mental defect; narcotic drug addition; and chronic alcoholism.</i>		
<i>**Chancroid; gonorrhea; granuloma inguinale; lymphogranuloma venereum; and syphilis.</i>		



**Medical Examination of Aliens  
Seeking Adjustment of Status**

(Please type or print clearly)

***I certify that on the date shown I examined:***

1. Name (Last in CAPS)

(First)

(Middle Initial)

2. Address (Street number and name)

(Apt. number)

(City)

(State)

(Zip Code)

3. File number (A number)

4. Sex

☐ Male☐ Female

5. Date of birth (MM/DD/YYYY)

6. Country of birth

7. Date of examination (MM/DD/YYYY)

**General Physical Examination: I examined specifically for evidence of the conditions listed below. My examination revealed:**☐ No apparent defect, disease or disability.☐ The conditions listed below were found (check all boxes that apply).***Class A Conditions***☐ Chancroid☐ Chronic alcoholism☐ Gonorrhea☐ Granuloma inguinale☐ Hansen's disease, infectious☐ HIV infection☐ Insanity☐ Lymphogranuloma venereum☐ Mental defect☐ Mental retardation☐ Narcotic drug addiction☐ Previous occurrence of one or more attacks of insanity☐ Psychopathic personality☐ Sexual deviation☐ Syphilis, infectious☐ Tuberculosis, active☐ Other physical defect, disease or disability (specify below).***Class B Conditions***☐ Hansen's disease, not infectious☐ Tuberculosis, not active**Examination for Tuberculosis - Tuberculin Skin Test**☐ Reaction \_\_\_\_\_ mm☐ No reaction☐ Not Done

Doctor's name (please print)

Date read

**Examination for Tuberculosis - Chest X-Ray Report**☐ Abnormal☐ Normal☐ Not done

Doctor's name (please print)

Date read

**Serologic Test for Syphilis**☐ Reactive Titer (confirmatory test performed)☐ Nonreactive

Test Type

Doctor's name (please print)

Date read

**Serologic Test for HIV Antibody**☐ Positive (confirmed by Western blot)☐ Negative

Test Type

Doctor's name (please print)

Date read

**Immunization Determination (DTP, OPV, MMR, Td-Refer to *PHS Guidelines* for recommendations.)**☐ Applicant is current for recommended age-specific immunizations.☐ Applicant is not current for recommended age-specific immunizations and I have encouraged that appropriate immunizations be obtained.**REMARKS:****Civil Surgeon Referral for Follow-Up of Medical Condition**☐ The alien named above has applied for adjustment of status. A medical examination conducted by me identified the conditions above which require resolution before medical clearance is granted or for which the alien may seek medical advice. Please provide follow-up services or refer the alien to an appropriate health care provider. The actions necessary for medical clearance are detailed on the reverse of this form.**Follow-Up Information:**

The alien named above has complied with the recommended health follow-up.

Doctor's name and address (please type or print clearly)

Doctor's signature

Date

**Application Certification**

I certify that I understand the purpose of the medical examination, I authorize the required tests to be completed, and the information on this form refers to me.

Signature

Date

**Civil Surgeon Certification:**

My examination showed the applicant to have met the medical examination and health follow-up requirements for adjustment of status.

Doctor's name address (please type or print clearly)

Doctor's signature

Date

# **Medical Clearance Requirements for Aliens Seeking Adjustment of Status**

Medical Condition	Estimate Time For Clearance	Action Required
<i>*Suspected Mental Conditions</i>	5 - 30 Days	The applicant must provide to a civil surgeon a psychological or psychiatric evaluation from a specialist or medical facility for final classification and clearance.
<i>Tuberculin Skin Test Reaction and Abnormal Chest X-Ray or Abnormal Chest X-Ray</i>	Immediate	The applicant should be encouraged to seek further medical evaluation for possible preventive treatment.
<i>Tuberculin Skin Test Reaction and Abnormal Chest X-Ray (Inactive/Class B)</i>	10 - 30 Days	The applicant should be referred to a physician or local health department for further evaluation. Medical clearance may not be granted until the applicant returns to the civil surgeon with documentation of medical evaluation for tuberculosis.
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<i>*Mental retardation; insanity; previous attack of insanity; psychopathic personality; sexual deviation or mental defect; narcotic drug addition; and chronic alcoholism.</i>		
<i>**Chancroid; gonorrhea; granuloma inguinale; lymphogranuloma venereum; and syphilis.</i>		

## Petition to Remove the Conditions on Residence

### Purpose of This Form.

This form is for a conditional resident who obtained such status through marriage to petition to the Immigration and Naturalization Service (INS) to remove the conditions on his or her residence.

### Who May File.

If you were granted conditional resident status through marriage to a U.S. citizen or permanent resident, use this form to petition for the removal of those conditions. Your petition should be filed jointly by you and the spouse through whom you obtained conditional status if you are still married. However, you may apply for a waiver of this joint filing requirement on this form if:

- you entered into the marriage in good faith, but your spouse subsequently died;
- you entered into the marriage in good faith, but the marriage was later terminated due to divorce or annulment;
- you entered into the marriage in good faith, and remain married, but have been battered or subjected to extreme cruelty by your U.S. citizen or permanent resident spouse; or
- the termination of your status and removal would result in extreme hardship.

You may include your conditional resident children in your petition, or they may file separately.

### General Filing Instructions.

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A." If an answer is "none," write "none." If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), and indicate the number of the item to which the answer refers. You must file your petition with the required initial evidence. Your petition must be properly signed and accompanied by the correct fee. If you are under 14 years of age, your parent or guardian may sign the petition on your behalf.

**Translations.** Any foreign language document must be accompanied by a full English translation that the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate the foreign language into English.

**Copies.** If these instructions state that a copy of a document may be filed with this petition and you choose to send us the original, we may keep that original for our records.

### Initial Evidence.

**Permanent Resident Card.** You must file your petition with a copy of your permanent resident or alien registration card, and a copy of the permanent resident or alien registration card of any of your conditional resident children you are including in your petition.

**Evidence of the Relationship.** Submit copies of documents indicating that the marriage upon which you were granted conditional status was entered into in "good faith" and was not for the purpose of circumventing immigration laws. You should submit copies of as many documents as you wish to establish this fact and to demonstrate the circumstances of the relationship from the date of the marriage to the present date, and to demonstrate any circumstances surrounding the end of the relationship, if it has ended.

The documents should cover as much of the period since your marriage as possible. Examples of such documents are:

- birth certificate(s) of child(ren) born to the marriage.
- lease or mortgage contracts showing joint occupancy and/or ownership of your communal residence.
- financial records showing joint ownership of assets and joint responsibility for liabilities, such as joint savings and checking accounts, joint federal and state tax returns, insurance policies that show the other spouse as the beneficiary, joint utility bills, joint installments or other loans.
- other documents you consider relevant to establish that your marriage was not entered into in order to evade the immigration laws of the United States.
- affidavits sworn to or affirmed by at least two people who have known both of you since your conditional residence was granted and have personal knowledge of your marriage and relationship. (Such persons may be required to testify before an immigration officer as to the information contained in the affidavit.) The original affidavit must be submitted and also contain the following information regarding the person making the affidavit: his or her full name and address; date and place of birth; relationship to you or your spouse, if any; and full information and complete details explaining how the person acquired his or her knowledge. Affidavits must be supported by other types of evidence listed above.

**If you are filing to waive the joint filing requirement due to the death of your spouse,** also submit a copy of the death certificate with your petition.

**If you are filing to waive the joint filing requirement because your marriage has been terminated,** also submit a copy of the divorce decree or other document terminating or annulling the marriage with your petition.

**If you are filing to waive the joint filing requirement because you and/or your conditional resident child were battered or subjected to extreme cruelty,** also file your petition with the following:

- Evidence of the physical abuse, such as copies of reports or official records issued by police, judges, medical personnel, school officials, and representatives of social service agencies, and original affidavits as described under *Evidence of the Relationship*; or
- Evidence of the abuse, such as copies of reports or official records issued by police, courts, medical personnel, school officials, clergy, social workers and other social service agency personnel. You may also submit any legal documents relating to an order of protection against the abuser or relating to any legal steps you may have taken to end the abuse. You may also submit evidence that you sought safe haven in a battered women's shelter or similar refuge, as well as photographs evidencing your injuries.
- A copy of your divorce decree, if your marriage was terminated by divorce on grounds of physical abuse or extreme cruelty.

***If you are filing for a waiver of the joint filing requirement because the termination of your status, and removal would result in "extreme hardship," you must also file your petition with evidence your removal would result in hardship significantly greater than the hardship encountered by other aliens who are removed from this country after extended stays. The evidence must relate only to those factors that arose since you became a conditional resident. If you are a child filing separately from your parent, also file your petition with a full explanation as to why you are filing separately, along with copies of any supporting documentation.***

## When to File.

***Filing jointly.*** If you are filing this petition jointly with your spouse, you must file it during the 90 days immediately before the second anniversary of the date you were accorded conditional resident status. This is the date your conditional residence expires. However, if you and your spouse are outside the United States on orders of the U.S. Government during the period in which the petition must be filed, you may file it within 90 days of your return to the United States.

***Filing with a request that the joint filing requirement be waived.***

You may file this petition at any time after you are granted conditional resident status and before you are removed. ***Effect of Not Filing.*** If this petition is not filed, you will automatically lose your permanent resident status as of the second anniversary of the date on which you were granted this status. You will then become removable from the United States. If your failure to file was through no fault of your own, you may file your petition late with a written explanation and request that INS excuse the late filing. Failure to file before the expiration date may be excused if you demonstrate when you file the application that the delay was due to extraordinary circumstances beyond your control and that the length of the delay was reasonable.

## Where to File.

If you live in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee or Texas, mail your petition to:

USINS Vermont Service Center,  
75 Lower Welden Street  
St. Albans, VT 05479-0001.

If you live in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma,

USINS Texas Service Center,  
P.O. Box 850965,  
Mesquite, TX 75185-0965.

If you live in Arizona, California, Guam, Hawaii or Nevada, mail your petition to:

USINS California Service Center,  
P.O. Box 10751  
Laguna Niguel, CA 92607-0751.

If you live in elsewhere in the U.S., mail your petition to:

USINS Nebraska Service Center,  
P.O. Box 87751  
Lincoln, NE 68501-7751.

## Fee.

The fee for this petition is \$145.00. The fee must be submitted in the exact amount. It cannot be refunded. **DO NOT MAIL CASH.**

- All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that: if you live in Guam and are filing this petition in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you are living in the Virgin Islands and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

## Processing Information.

***Acceptance.*** Any petition that is not signed or accompanied by the correct fee, will be rejected with a notice that the petition is deficient. You may correct the deficiency and resubmit the petition. A petition is not considered properly filed until accepted by INS.

***Initial processing.*** Once a petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility and we may deny your petition.

***Requests for more information or interview.*** We may request more information or evidence, or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

***Decision.*** You will be advised in writing of the decision on your petition.

## Penalties.

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

## Privacy Act Notice.

We ask for the information on this form and associated evidence, to determine if you have established eligibility for the immigration benefit you are seeking. Our legal right to ask for this information is in 8 USC 1184, 1255 and 1258. Failure to provide this information and any requested evidence may delay a final decision or result in denial of your request.

All the information provided on this form, including addresses, are protected by the Privacy Act and the Freedom of Information Act. This information may be released to another government agency. However, the information will not be released in any form whatsoever to a third party who requests it without a court order, or without your written consent, or, in the case of a child, the written consent of the parent or legal guardian who filed the form on the child's behalf.

---

### **Paperwork Reduction Act Notice.**

We try to create forms and instructions that are accurate, can be easily understood and that impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 15 minutes to learn about the law and form; (2) 15 minutes to complete the form; and (3) 50 minutes to assemble and file the petition; for a total estimated average of 1 hour and 20 minutes per petition. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you may write to the Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4034, Washington, DC 20536; OMB No. 1115-0145. **DO NOT MAIL YOUR COMPLETED APPLICATION TO THIS ADDRESS.**

### **Do You Need Help or INS Forms?**

If you need information on immigration laws, regulations or procedures or INS forms, call our National Customer Service Center at **1-800-375-5283**, or visit the INS Internet website at **[www.ins.usdoj.gov](http://www.ins.usdoj.gov)**.





# Petition to Remove the Conditions on Residence

## START HERE - Please Type or Print

### Part 1. Information about you.

Family Name	Given Name	Middle Initial
Address - C/O:		
Street Number and Name	Apt. #	
City	State or Province	
Country	ZIP/Postal Code	
Date of Birth (month/day/year)	Country of Birth	
Social Security # (if any)	A#	
Conditional residence expires on (month/day/year)		
Mailing address if different from address listed above:		
Street Number and Name	Apt. #	
City	State or Province	
Country	ZIP/Postal Code	

### Part 2. Basis for petition (check one).

- a. ☐ My conditional residence is based on my marriage to a U.S. citizen or permanent resident, and we are filing this petition together.
- b. ☐ I am a child who entered as a conditional permanent resident and I am unable to be included in a Joint Petition to Remove the Conditional Basis of Alien's Permanent Residence (Form I-751) filed by my parent(s).

My conditional residence is based on my marriage to a U.S. citizen or permanent resident, but I am unable to file a joint petition and I request a waiver because: (check one)

- c. ☐ My spouse is deceased.
- d. ☐ I entered into the marriage in good faith, but the marriage was terminated through divorce/annulment.
- e. ☐ I am a conditional resident spouse who entered into the marriage in good faith, or I am a conditional resident child, who has been battered or subjected to extreme cruelty by my citizen or permanent resident spouse or parent.
- f. ☐ The termination of my status and removal from the United States would result in an extreme hardship.

### Part 3. Additional information about you.

Other Names Used (including maiden name):	Telephone #
Date of Marriage	Place of Marriage
If your spouse is deceased, give the date of death. (month/day/year)	
• Are you in removal or deportation proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No	
• Was a fee paid to anyone other than an attorney in connection with this petition? <input type="checkbox"/> Yes <input type="checkbox"/> No	

## FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
<input type="checkbox"/> Applicant Interviewed	
Remark	
Action	
To Be Completed by Attorney or Representative, if any	
<input type="checkbox"/> Fill in box if G-28 is attached to represent the applicant	
VOLAG#	
ATTY State License #	

Continued on back.

Part 3. Additional information about you. (continued)

- Since becoming a conditional resident, have you ever been arrested, cited, charged, indicted, convicted, fined or imprisoned for breaking or violating any law or ordinance (excluding traffic regulations), or committed any crime for which you were not arrested?
- If you are married, is this a different marriage than the one through which conditional residence status was obtained?
- Have you resided at any other address since you became a permanent resident? (If yes, attach a list of all addresses and dates.)
- Is your spouse currently serving with or employed by the U.S. government and serving outside the United States?

Part 4. Information about the spouse or parent through whom you gained your conditional residence.

Family Name		Given Name		Initial	Phone Number
Address					
Date of Birth (month/day/year)		Social Security # (if any)	A#		

Part 5. Information about your children. List all your children. Attach another sheet(s) if necessary.

Name	Date of Birth (month/day/year)	If in U.S., give A number, current immigration status and U.S. address.	Living with you?
1.			<input type="checkbox"/> Yes <input type="checkbox"/> No
2.			<input type="checkbox"/> Yes <input type="checkbox"/> No
3.			<input type="checkbox"/> Yes <input type="checkbox"/> No
4.			<input type="checkbox"/> Yes <input type="checkbox"/> No

Part 6. Signature. Read the information on penalties in the instructions before completing this section. If you checked block "a" in Part 2, your spouse must also sign below.

I certify, under penalty of perjury under the laws of the United States of America, that this petition and the evidence submitted with it is all true and correct. If conditional residence was based on a marriage, I further certify that the marriage was entered into in accordance with the laws of the place where the marriage took place and was not for the purpose of procuring an immigration benefit. I also authorize the release of any information from my records that the Immigration and Naturalization Service needs to determine eligibility for the benefit sought.

Signature	Print Name	Date
Signature of Spouse	Print Name	Date

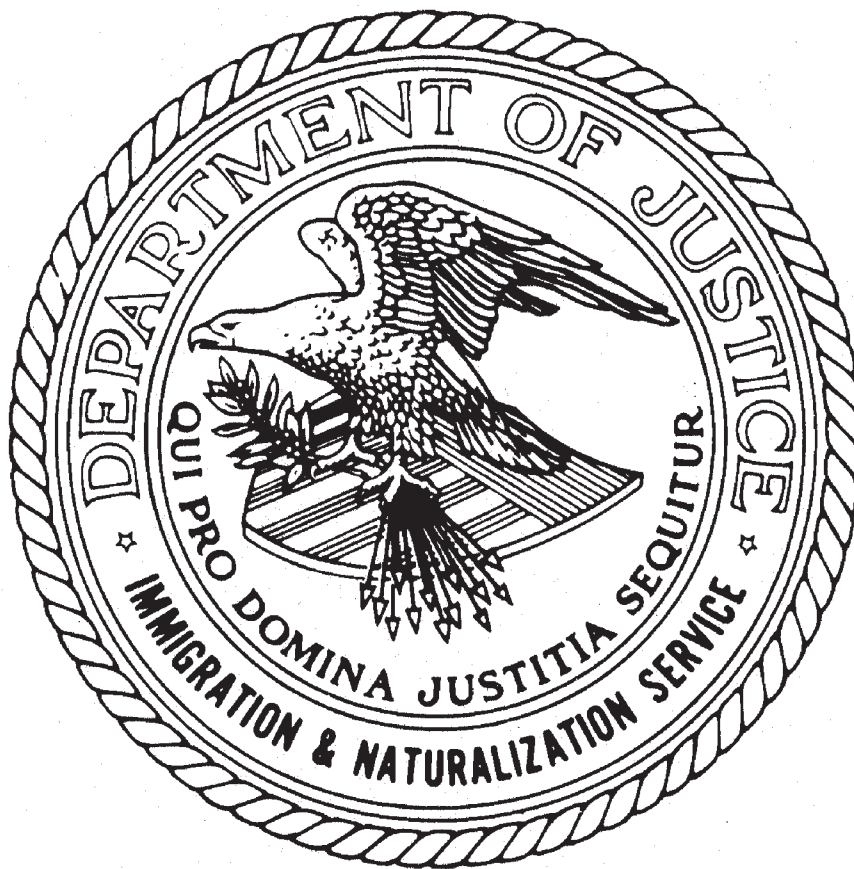
**Please note:** If you do not completely fill out this form or fail to submit any required documents listed in the instructions, you cannot be found eligible for the requested benefit and this petition may be denied.

Part 7. Signature of person preparing form, if other than above.

I declare that I prepared this petition at the request of the above person and it is based on all information of which I have knowledge.

Signature	Print Name	Date
Firm Name and Address		

# Application for Employment Authorization







## Application for Employment Authorization

### Instructions for Application for Employment Authorization

The Immigration and Naturalization Service (INS) recommends that you retain a copy of your completed application for your records.

#### Index

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5. Where To File	6
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#### Part 1. General.

**Purpose of the Application.** Certain aliens who are temporarily in the United States may file a Form I-765, Application for Employment Authorization, to request an Employment Authorization Document (EAD). Other aliens who are authorized to work in the United States without restrictions should also use this form to apply to the INS for a document evidencing such authorization. Please review Part 2: Eligibility Categories to determine whether you should use this form.

If you are a Lawful Permanent Resident, a Conditional Resident, or a nonimmigrant authorized to be employed with a specific employer under 8 CFR 274a.12(b), please do **NOT** use this form.

#### Definitions

**Employment Authorization Document (EAD):** Form I-688, Form I-688A, Form I-688B, Form I-766, or any successor document issued by the INS as evidence that the holder is authorized to work in the United States.

**Renewal EAD:** an EAD issued to an eligible applicant at or after the expiration of a previous EAD issued under the same category.

**Replacement EAD:** an EAD issued to an eligible applicant when the previously issued EAD has been lost, stolen, mutilated, or contains erroneous information, such as a misspelled name.

**Interim EAD:** an EAD issued to an eligible applicant when the INS has failed to adjudicate an application within 90 days of receipt of a properly filed EAD application or within 30 days of a properly filed initial EAD application based on an asylum application filed on or after January 4, 1995. The interim EAD will be granted for a period not to exceed 240 days and is subject to the conditions noted on the document.

#### Part 2. Eligibility Categories.

The INS adjudicates a request for employment authorization by determining whether an applicant has submitted the required information and documentation, and whether the applicant is eligible. In order to determine your eligibility, you must identify the category in which you are eligible and fill in that category in question 16 on the Form I-765. Enter only **one** of the following category numbers on the application form. For example, if you are a refugee applying for an EAD, you should write "(a)(3)" at question 16.

For easier reference, the categories are subdivided as follows:

	Page No.
Asylee/Refugee	1
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Eligible Dependents of Employees of Diplomatic Missions, International Organizations, or NATO	3
Employment-Based Nonimmigrants . . . . .	3
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Adjustment of Status Categories . . . . .	4
Other . . . . .	4

#### Asylee/Refugee Categories

**Refugee--(a)(3).** File your EAD application with either a copy of your Form I-590, Registration for Classification as Refugee, approval letter or a copy of a Form I-730, Refugee/Asylee Relative Petition, approval notice.

**Paroled as a Refugee--(a)(4).** File your EAD application with a copy of your Form I-94, Departure Record.

**Asylee (granted asylum)--(a)(5).** File your EAD application with a copy of the INS letter, or judge's decision, granting you asylum. It is not necessary to apply for an EAD as an asylee until 90 days before the expiration of your current EAD.

**Asylum Applicant (with a pending asylum application) who Filed for Asylum on or after January 4, 1995--(c)(8).** (For specific instructions for applicants with pending asylum claims, see page 5).

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## Nationality Categories

### **Citizen of Micronesia, the Marshall Islands or Palau--(a)(8).**

File your EAD application if you were admitted to the United States as a citizen of the Federated States of Micronesia (CFA/FSM), the Marshall Islands (CFA/MIS), or Palau, pursuant to agreements between the United States and the former trust territories.

### **Deferred Enforced Departure (DED) / Extended Voluntary Departure--(a)(11).** File your EAD application with evidence of your identity and nationality.

**Temporary Protected Status (TPS)--(a)(12).** File your EAD application with Form I-821, Application for Temporary Protected Status. If you are filing for an initial EAD based on your TPS status, include evidence of identity and nationality as required by the Form I-821 instructions.

**Temporary treatment benefits --(c)(19).** For an EAD based on 8 CFR 244.5. Include evidence of nationality and identity as required by the Form I-821 instructions.

- Extension of TPS status: include a copy (front and back) of your last available TPS document: EAD, Form I-94 or approval notice.
- Registration for TPS only without employment authorization: file the Form I-765, Form I-821, and a letter indicating that this form is for registration purposes only. No fee is required for the Form I-765 filed as part of TPS registration. (Form I-821 has separate fee requirements.)

**NACARA Section 203 Applicants who are eligible to apply for NACARA relief with INS--(c)(10).** See the instructions to Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal, to determine if you are eligible to apply for NACARA 203 relief with INS.

If you are eligible, follow the instructions below and submit your Form I-765 at the same time you file your Form I-881 application with INS:

- If you are filing a Form I-881 with INS, file your EAD application at the same time and at the same filing location. Your response to question 16 on the Form I-765 should be "(c)(10)."
- If you have already filed your I-881 application at the service center specified on the Form I-881, and now wish to apply for employment authorization, your response to question 16 on Form I-765 should be "(c)(10)." You should file your EAD application at the Service Center designated in Part 5 of these instructions.

- If you are a NACARA Section 203 applicant who previously filed a Form I-881 with the INS, and the application is still pending, you may renew your EAD. Your response to question 16 on Form I-765 should be "(c)(10)." Submit the required fee and the EAD application to the service center designated in Part 5 of these instructions.

### **Dependent of TECRO E-1 Nonimmigrant--(c)(2).**

File your EAD application with the required certification from the American Institute in Taiwan if you are the spouse, or unmarried dependent son or daughter of an E-1 employee of the Taipei Economic and Cultural Representative Office.

## Foreign Students

### **F-1 Student Seeking Optional Practical Training in an Occupation Directly Related to**

**Studies--(c)(3)(i).** File your EAD application with a Certificate of Eligibility of Nonimmigrant (F-1) Student Status (Form I-20 A-B/I-20 ID) endorsed by a Designated School Official within the past 30 days.

### **F-1 Student Offered Off-Campus Employment under the Sponsorship of a Qualifying**

**International Organization-- (c)(3)(ii).** File your EAD application with the international organization's letter of certification that the proposed employment is within the scope of its sponsorship, and a Certificate of Eligibility of Nonimmigrant (F-1) Student Status--For Academic and Language Students (Form I-20 A-B/I-20 ID) endorsed by the Designated School Official within the past 30 days.

### **F-1 Student Seeking Off-Campus Employment**

**Due to Severe Economic Hardship--(c)(3)(iii).** File your EAD application with Form I-20 A-B/I-20 ID, Certificate of Eligibility of Nonimmigrant (F-1) Student Status--For Academic and Language Students; Form I-538, Certification by Designated School Official, and any evidence you wish to submit, such as affidavits, which detail the unforeseen economic circumstances that cause your request, and evidence you have tried to find off-campus employment with an employer who has filed a labor and wage attestation.

### **J-2 Spouse or Minor Child of an Exchange**

**Visitor--(c)(5).** File your EAD application with a copy of your J-1's (principal alien's) Certificate of Eligibility for Exchange Visitor (J-1) Status (Form IAP-66). You must submit a written statement, with any supporting evidence showing, that your employment is not necessary to support the J-1 but is for other purposes.

### **M-1 Student Seeking Practical Training after**

**Completing Studies--(c)(6).** File your EAD application with a completed Form I-538, Application by Nonimmigrant Student for Extension of Stay, School Transfer, or Permission to Accept or Continue Employment, Form I-20 M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status--For Vocational Students endorsed by the Designated School Official within the past 30 days.

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## **Eligible Dependents of Employees of Diplomatic Missions, International Organizations, or NATO**

### **Dependent of A-1 or A-2 Foreign Government**

**Officials--(c)(1).** Submit your EAD application with Form I-566, Inter-Agency Record of Individual Requesting Change/Adjustment to, or from, A or G Status; or Requesting A, G, or NATO Dependent Employment Authorization, through your diplomatic mission to the Department of State (DOS). The DOS will forward all favorably endorsed applications directly to the Nebraska Service Center for adjudication.

### **Dependent of G-1, G-3 or G-4**

**Nonimmigrant--(c)(4).** Submit your EAD application with a Form I-566, Inter-Agency Record of Individual Requesting Change/Adjustment to or from A or G Status; or Requesting A, G, or NATO Dependent Employment Authorization, through your international organization to the Department of State (DOS). [In New York City, the United Nations (UN) and UN missions should submit such applications to the United States Mission to the UN (USUN).] The DOS or USUN will forward all favorably endorsed applications directly to the Nebraska Service Center for adjudication.

### **Dependent of NATO-1 through NATO-6--(c)(7).**

Submit your EAD application with Form I-566, Inter-Agency Record of Individual Requesting Change/Adjustment to, or from, A or G Status; or Requesting A, G or NATO Dependent Employment Authorization, to NATO SACLANT, 7857 Blandy Road, C-027, Suite 100, Norfolk, VA 23551-2490. NATO/SACLANT will forward all favorably endorsed applications directly to the Nebraska Service Center for adjudication.

## **Employment-Based Nonimmigrant Categories**

### **B-1 Nonimmigrant who is the personal or domestic servant of a nonimmigrant employer--(c)(17)(i).**

File your EAD application with:

- Evidence from your employer that he or she is a B, E, F, H, I, J, L, M, O, P, R, or TN nonimmigrant and you were employed for at least one year by the employer before the employer entered the United States or your employer regularly employs personal and domestic servants and has done so for a period of years before coming to the United States; and
- Evidence that you have either worked for this employer as a personal or domestic servant for at least one year or, evidence that you have at least one year's experience as a personal or domestic servant; and
- Evidence establishing that you have a residence abroad which you have no intention of abandoning.

### **B-1 Nonimmigrant Domestic Servant of a U.S.**

**Citizen-- (c)(17)(ii).** File your EAD application with:

- Evidence from your employer that he or she is a U.S. citizen; and
- Evidence that your employer has a permanent home abroad or is stationed outside the United States and is temporarily visiting the United States or the citizen's current assignment in the United States will not be longer than four (4) years; and
- Evidence that he or she has employed you as a domestic servant abroad for at least six (6) months prior to your admission to the United States.

### **B-1 Nonimmigrant Employed by a Foreign**

**Airline--(c)(17)(iii).** File your EAD application with a letter from the airline fully describing your duties and indicating that your position would entitle you to E nonimmigrant status except for the fact that you are not a national of the same country as the airline or because there is no treaty of commerce and navigation in effect between the United States and that country.

### **Spouse of an E-1/E-2 Treaty Trader or**

**Investor--(a)(17).** File your EAD application with evidence of your lawful status and evidence you are a spouse of a principal E-1/E-2, such as your I-94. (Other relatives or dependents of E-1/E-2 aliens who are in E status are not eligible for employment authorization and may not file under this category.)

### **Spouse of an L-1 Intracompany**

**Transferee--(a)(18).** File your EAD application with evidence of your lawful status and evidence you are a spouse of a principal L-1, such as your I-94. (Other relatives or dependents of L-1 aliens who are in L status are not eligible for employment authorization and may not file under this category.)

## **Family-Based Nonimmigrant Categories**

### **K-1 Nonimmigrant Fiance(e) of U.S. Citizen or K-2**

**Dependent--(a)(6).** File your EAD application if you are filing within 90 days from the date of entry. This EAD cannot be renewed. Any EAD application other than for a replacement must be based on your pending application for adjustment under (c)(9).

### **K-3 Nonimmigrant Spouse of U.S. Citizen or K-4**

**Dependent--(a)(9).** File your EAD application along with evidence of your admission such as copies of your Form I-94, passport, and K visa.

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**Family Unity Program--(a)(13).** File your EAD application with a copy of the approval notice, if you have been granted status under this program. You may choose to file your EAD application concurrently with your Form I-817, Application for Voluntary Departure under the Family Unity Program. The INS may take up to 90 days from the date upon which you are granted status under the Family Unity Program to adjudicate your EAD application. If you were denied Family Unity status solely because your legalized spouse or parent first applied under the Legalization/SAW programs after May 5, 1988, file your EAD application with a new Form I-817 application and a copy of the original denial. However, if your EAD application is based on continuing eligibility under (c)(12), please refer to **Deportable Alien Granted Voluntary Departure**.

**LIFE Family Unity--(a)(14).** If you are applying for initial employment authorization pursuant to the Family Unity provisions of section 1504 of the LIFE Act Amendments, or an extension of such authorization, you should not be using this form. Please obtain and complete a Form I-817, Application for Family Unity Benefits. If you are applying for a replacement EAD that was issued pursuant to the LIFE Act Amendments Family Unity provisions, file your EAD application with the required evidence listed in Part 3.

**V-1, V-2 or V-3 Nonimmigrant--(a)(15).** If you have been inspected and admitted to the United States with a valid V visa, file this application along with evidence of your admission, such as copies of your Form I-94, passport, and K visa. If you have been granted V status while in the United States, file this application along with evidence of your V status, such as an approval notice. If you are in the United States but you have not yet filed an application for V status, you may file this application at the same time as you file your application for V status. INS will adjudicate this application after adjudicating your application for V status.

### **EAD Applicants Who Have Filed For Adjustment of Status**

**Adjustment Applicant--(c)(9).** File your EAD application with a copy of the receipt notice or other evidence that your Form I-485, Application for Permanent Residence, is pending. You may file Form I-765 together with your Form I-485.

**Adjustment Applicant Based on Continuous Residence Since January 1, 1972--(c)(16).** File your EAD application with your Form I-485, Application for Permanent Residence; a copy of your receipt notice; or other evidence that the Form I-485 is pending.

### **Other**

**N-8 or N-9 Nonimmigrant--(a)(7).** File your EAD application with the required evidence listed in Part 3.

**Granted Withholding of Deportation or Removal --(a)(10).** File your EAD application with a copy of the Immigration Judge's order. It is not necessary to apply for a new EAD until 90 days before the expiration of your current EAD.

**Applicant for Suspension of Deportation--(c)(10).** File your EAD application with evidence that your Form I-881, Application for Suspension of Deportation, or EOIR-40, is pending.

**Paroled in the Public Interest--(c)(11).** File your EAD application if you were paroled into the United States for emergent reasons or reasons strictly in the public interest.

**Deferred Action--(c)(14).** File your EAD application with a copy of the order, notice or document placing you in deferred action and evidence establishing economic necessity for an EAD.

**Final Order of Deportation--(c)(18).** File your EAD application with a copy of the order of supervision and a request for employment authorization which may be based on, but not limited to the following:

- Existence of a dependent spouse and/or children in the United States who rely on you for support; and
- Existence of economic necessity to be employed;
- Anticipated length of time before you can be removed from the United States.

**LIFE Legalization applicant--(c)(24).** We encourage you to file your EAD application together with your Form I-485, Application to Register Permanent Residence or Adjust Status, to facilitate processing. However, you may file Form I-765 at a later date with evidence that you were a CSS, LULAC, or Zambrano class member applicant before October 1, 2000 and with a copy of the receipt notice or other evidence that your Form I-485 is pending.

**T-1 Nonimmigrant--(a)(16).** If you are applying for initial employment authorization as a T-1 nonimmigrant, file this form only if you did not request an employment authorization document when you applied for T nonimmigrant status. If you have been granted T status and this is a request for a renewal or replacement of an employment authorization document, file this application along with evidence of your T status, such as an approval notice.

**T-2, T-3, or T-4 Nonimmigrant--(c)(25).** File this form with a copy of your T-1's (principal alien's) approval notice and proof of your relationship to the T-1 principal.



### Part 3. Required Documentation

All applications must be filed with the documents required below, in addition to the particular evidence required for the category listed in Part 2, **Eligibility Categories**, with fee, if required.

If you are required to show economic necessity for your category (See Part 2), submit a list of your assets, income and expenses.

Please assemble the documents in the following order:

Your application with the filing fee. See Part 4, **Fee** for details.

If you are mailing your application to the INS, you must also submit:

- A copy of Form I-94 Departure Record (front and back), if available.
- A copy of your last EAD (front and back).
- 2 photos with a white background taken no earlier than 30 days before submission to the INS. They should be unmounted, glossy, and unretouched. The photos should show a three-quarter front profile of the right side of your face, with your right ear visible. Your head should be bare unless you are wearing a headdress as required by a religious order to which you belong. The photo should not be larger than 1½ X 1½ inches, with the distance from the top of the head to just below the chin about 1¼ inches. Lightly print your name and your A#, if known, on the back of each photo with a pencil.

#### **Special filing instructions for those with pending asylum applications ((c)(8))**

**Asylum Applicant (with a pending asylum application) who Filed for Asylum on or after January 4, 1995.** You must wait at least 150 days following the filing of your asylum claim before you are eligible to apply for an EAD. If you file your EAD application early, it will be denied. File your EAD application with:

- A copy of the INS acknowledgement mailer which was mailed to you; or
- Other evidence that your Form I-589 was filed with the INS; or
- Evidence that your Form I-589 was filed with an Immigration Judge at the Executive Office for Immigration Review (EOIR); or
- Evidence that your asylum application remains under administrative or judicial review.

**Asylum Applicant (with a pending asylum application) who Filed for Asylum and for Withholding of Deportation Prior to January 4, 1995 and is NOT in Exclusion or Deportation Proceedings.** You may file your EAD application at any time; however, it will only be granted if the INS finds that your asylum application is not frivolous. File your EAD application with:

- A complete copy of your previously filed Form I-589; AND
- A copy of your INS receipt notice; or
- A copy of the INS acknowledgement mailer; or
- Evidence that your Form I-589 was filed with EOIR; or
- Evidence that your asylum application remains under administrative or judicial review; or
- Other evidence that you filed an asylum application.

**Asylum Applicant (with a pending asylum application) who Filed an Initial Request for Asylum Prior to January 4, 1995, and IS IN Exclusion or Deportation Proceedings.** If you filed your Request for Asylum and Withholding of Deportation (Form I-589) prior to January 4, 1995 and you ARE IN exclusion or deportation proceedings, file your EAD application with:

- A date-stamped copy of your previously filed Form I-589; or
- A copy of Form I-221, Order to Show Cause and Notice of Hearing, or Form I-122, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge; or
- A copy of EOIR-26, Notice of Appeal, date stamped by the Office of the Immigration Judge; or
- A date-stamped copy of a petition for judicial review or for *habeas corpus* issued to the asylum applicant; or
- Other evidence that you filed an asylum application with EOIR.

**Asylum Application under the ABC Settlement Agreement--(c)(8).** If you are a Salvadoran or Guatemalan national eligible for benefits under the ABC settlement agreement, American Baptist Churches v. Thornburgh, 760 F. Supp. 976 (N.D. Cal. 1991), please follow the instructions contained in this section when filing your Form I-765.

You must have asylum application (Form I-589) on file either with INS or with an immigration judge in order to receive work authorization. Therefore, please submit evidence that you have previously filed an asylum application when you submit your EAD application. You are not required to submit this evidence when you apply, but it will help INS process your request efficiently.

If you are renewing or replacing your EAD, you must pay the filing fee.

Mark your application as follows:

- Write "ABC" in the top right corner of your EAD application. You must identify yourself as an ABC class member if you are applying for an EAD under the ABC settlement agreement.
- Write "(c)(8)" in Section 16 of the application.



You are entitled to an EAD without regard to the merits of your asylum claim. Your application for an EAD will be decided within 60 days if: (1) you pay the filing fee, (2) you have a complete, pending asylum application on file, and (3) write "ABC" in the top right corner of your EAD application. If you do not pay the filing fee for an initial EAD request, your request may be denied if INS finds that your asylum application is frivolous. However, if you cannot pay the filing fee for an EAD, you may qualify for a fee waiver under 8 CFR 103.7(c). See Part 4 concerning fee waivers.

#### Part 4. Fee

Applicants must pay a fee of **\$120** to file this form unless noted below. If a fee is required, it will not be refunded. Pay in the exact amount. Checks and money orders must be payable in U.S. currency. Make check or money order payable to "**Immigration and Naturalization Service**." If you live in Guam make your check or money order payable to "**Treasurer, Guam**." If you live in the U.S. Virgin Islands make your check or money order payable to "**Commissioner of Finance of the Virgin Islands**." A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn. Please do **not** send cash in the mail.

**Initial EAD:** If this is your initial application and you are applying under one of the following categories, a filing fee is not required:

- (a)(3) Refugee;
- (a)(4) Paroled as Refugee;
- (a)(5) Asylee;
- (a)(7) N-8 or N-9 nonimmigrant;
- (a)(8) Citizen of Micronesia, Marshall Islands or Palau;
- (a)(10) Granted Withholding of Deportation;
- (a)(11) Deferred Enforced Departure;
- (a)(16) Victim of Severe Form of Trafficking (T-1);
- (c)(1), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel; or
- (c)(8) Applicant for asylum [an applicant filing under the special ABC procedures must pay the fee].

**Renewal EAD:** If this is a renewal application and you are applying under one of the following categories, a filing fee is not required:

- (a)(8) Citizen of Micronesia, Marshall Islands, or Palau;
- (a)(10) Granted Withholding of Deportation;
- (a)(11) Deferred Enforced Departure; or
- (c)(1), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel.

**Replacement EAD:** If this is your replacement application and you are applying under one of the following categories, a filing fee is not required:

- (c)(1), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel.

You may be eligible for a fee waiver under 8 CFR 103.7(c).

The INS will use the Poverty Guidelines published annually by the Department of Health and Human Services as the basic criteria in determining the applicant's eligibility when economic necessity is identified as a factor.

The Poverty Guidelines will be used as a guide, but not as a conclusive standard, in adjudicating fee waiver requests for employment authorization applications requiring a fee.

#### Part 5. Where to File

If your response to question 16 is: **(a)(3), (a)(4), (a)(5), (a)(7), or (a)(8)** mail your application to:

**INS Service Center**  
P.O. Box 87765  
Lincoln, NE 68501-7765

If your response to question 16 is **(a)(9)**, mail your application to:

**USINS**  
P.O. Box 7218  
Chicago, IL 60680-7218

If your response to question 16 is **(a)(15)**, mail your application to:

**USINS**  
P.O. Box 7216  
Chicago, IL 60680-7216

If your response to question 16 is **(a)(14)** or **(c)(24)**, mail your application to:

**USINS**  
P.O. Box 7219  
Chicago, IL 60680-7219

If your response to question 16 is: **(a)(16)** or **(c)(25)** mail your application to:

**INS Service Center**  
75 Lower Welden St.  
St. Albans, VT 05479-0001

If your response to question 16 is: **(a)(10), (c)(11), (c)(12), (c)(14), (c)(16), (c)(18)**,

apply at the local INS office having jurisdiction over your place of residence.

If your response to question 16 is: **(a)(12)** or **(c)(19)**, file your EAD application according to the instructions in the Federal Register notice for your particular country's TPS designation.

If your response to question 16 is **(c)(1), (c)(4)** , or **(c)(7)**, submit your application through your principal's sponsoring organization. Your application will be reviewed and forwarded by the DOS, USUN, or NATO/SACLANT to the Nebraska Service Center following certification of your eligibility for an EAD.

If your response to question 16 is **(c)(8)** under the special ABC filing instructions and you are filing your asylum and EAD applications together, mail your application to the office where you are filing your asylum application.

If your response to question 16 is **(c)(9)**, file your application at the same local INS office or Service Center where you submitted your adjustment of status application.

If your response to question 16 is:

**(a)(6), (a)(11), (a)(13), (a)(17), (a)(18), (c)(2), (c)(3)(i), (c)(3)(ii), (c)(3)(iii), (c)(5), (c)(6), (c)(8), (c)(17)(i), (c)(17)(ii), or (c)(17)(iii):**

mail your application based on your address to the appropriate **Service Center**. The correct **Service Center** is based on the state or territory in which you live.

If you live in:		Mail your application to:
Connecticut D.C. Maryland New Hampshire New York Puerto Rico Vermont West Virginia	Delaware Maine Massachusetts New Jersey Pennsylvania Rhode Island Virginia U.S.V.I.	<b>INS Service Center</b> 75 Lower Welden Street St. Albans, VT 05479-0001
Arizona Guam Nevada	California Hawaii	<b>INS Service Center</b> P.O. Box 10765 Laguna Niguel, CA 92607-1076
Alabama Florida Kentucky Mississippi North Carolina South Carolina Texas	Arkansas Georgia Louisiana New Mexico Oklahoma Tennessee	<b>INS Service Center</b> P.O. Box 851041 Mesquite, TX 75185-1041
Alaska Idaho Indiana Kansas Minnesota Montana North Dakota Oregon Utah Wisconsin	Colorado Illinois Iowa Michigan Missouri Nebraska Ohio South Dakota Washington Wyoming	<b>INS Service Center</b> P.O. Box 87765 Lincoln, NE

If your response to question 16 is **(c)(10)**, and you are a NACARA 203 applicant eligible to apply for relief with the INS, or if your I-881 application is still pending with INS and you wish to renew your EAD, mail your EAD application with the required fee to the appropriate INS service center below:

- If you live in Alabama, Arkansas, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, the U.S. Virgin Islands, Vermont, Virginia, West Virginia or Wyoming, mail your application to:

**INS Service Center**  
75 Lower Welden St.  
St. Albans, VT 05479-0001

- If you live in Alaska, Arizona, California, the Commonwealth of Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, Ohio, South Dakota, Washington, or Wisconsin, mail your application to:

**INS Service Center**  
P.O. Box 10765  
Laguna Niguel, CA 92607-1076

You should submit the fee for the EAD application on a separate check or money order. Do not combine your check or money order with the fee for the Form I-881.

If your response to question 16 is **(c)(10)** and you are not eligible to apply for NACARA 203 relief with INS, but you are eligible for other deportation or removal relief, apply at the local INS office having jurisdiction over your place of residence.

## Part 6. Processing Information

**Acceptance.** If your application is complete and filed at an INS Service Center, you will be mailed a Form I-797 receipt notice. However, an application filed without the required fee, evidence, signature or photographs (if required) will be returned to you as incomplete. You may correct the deficiency and resubmit the application; however, an application is not considered properly filed until the INS accepts it.

**Approval.** If approved, your EAD will either be mailed to you or you may be required to appear at your local INS office to pick it up.

**Request for evidence.** If additional information or documentation is required, a written request will be sent to you specifying the information or advising you of an interview.

**Denial.** If your application cannot be granted, you will receive a written notice explaining the basis of your denial.

**Interim EAD.** If you have not received a decision within 90 days of receipt by the INS of a properly filed EAD application or within 30 days of a properly filed initial EAD application based on an asylum application filed on or after January 4, 1995, you may obtain interim work authorization by appearing in person at your local INS district office. You must bring proof of identity and any notices that you have received from the INS in connection with your application for employment authorization.

## Part 7. Other Information

**Penalties for Perjury.** All statements contained in response to questions in this application are declared to be true and correct under penalty of perjury. Title 18, United States Code, Section 1546, provides in part:

... Whoever knowingly makes under oath, or as permitted under penalty of perjury under 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement-shall be fined in accordance with this title or imprisoned not more than five years, or both.

The knowing placement of false information on this application may subject you and/or the preparer of this application to criminal penalties under Title 18 of the United States Code. The knowing placement of false information on this application may also subject you and/or the preparer to civil penalties under Section 274C of the Immigration and Nationality Act (INA), 8 U.S.C. 1324c. Under 8 U.S.C. 1324c, a person subject to a final order for civil document fraud is deportable from the United States and may be subject to fines.

**Authority for Collecting this Information.** The authority to require you to file Form I-765, Application for Employment Authorization, when applying for employment authorization is found at sections 103(a) and 274A(h)(3) of the Immigration and Nationality Act. Information you provide on your Form I-765 is used to determine whether you are eligible for employment authorization and for the preparation of your Employment Authorization Document if you are found eligible. Failure to provide all information as requested may result in the denial or rejection of this application. The information you provide may also be disclosed to other federal, state, local and foreign law enforcement and regulatory agencies during the course of the INS investigations.

**Paperwork Reduction Act.** An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The Immigration and Naturalization Service (INS) tries to create forms and instructions which are accurate and easily understood. Often this is difficult because immigration law can be very complex. The public reporting burden for this form is estimated to average three (3) hours and twenty-five (25) minutes per response, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The INS welcomes your comments regarding this burden estimate or any other aspect of this form, including suggestions for reducing this burden to Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4034, Washington, DC 20536; OMB No. 1115-0163. **DO NOT MAIL YOUR COMPLETED APPLICATION TO THIS ADDRESS.**

## Application for Employment Authorization

### Do Not Write in This Block.

Remarks	Action Stamp	Fee Stamp
A#		
Applicant is filing under §274a.12 _____		
<input type="checkbox"/> Application Approved. Employment Authorized / Extended ( <i>Circle One</i> ) _____ until _____ (Date). Subject to the following conditions: _____ (Date). <input type="checkbox"/> Application Denied. <input type="checkbox"/> Failed to establish eligibility under 8 CFR 274a.12 (a) or (c). <input type="checkbox"/> Failed to establish economic necessity as required in 8 CFR 274a.12(c)(14), (18) and 8 CFR 214.2(f)		

I am applying for: ☐ Permission to accept employment.  
☐ Replacement (*of lost employment authorization document*).  
☐ Renewal of my permission to accept employment (*attach previous employment authorization document*).

1. Name (Family Name in CAPS) (First) _____ (Middle) _____	11. Have you ever before applied for employment authorization from INS? <input type="checkbox"/> Yes (If yes, complete below) <input type="checkbox"/> No
2. Other Names Used (Include Maiden Name) _____	Which INS Office? _____ Date(s) _____
3. Address in the United States (Number and Street) _____ (Apt. Number) _____ (Town or City) _____ (State/Country) _____ (ZIP Code) _____	Results (Granted or Denied - attach all documentation) _____
4. Country of Citizenship/Nationality _____	12. Date of Last Entry into the U.S. (Month/Day/Year) _____
5. Place of Birth (Town or City) _____ (State/Province) _____ (Country) _____	13. Place of Last Entry into the U.S. _____
6. Date of Birth _____ 7. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	14. Manner of Last Entry (Visitor, Student, etc.) _____
8. Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced	15. Current Immigration Status (Visitor, Student, etc.) _____
9. Social Security Number (Include all Numbers you have ever used) (if any) _____	16. Go to Part 2 of the Instructions, Eligibility Categories. In the space below, place the letter and number of the category you selected from the instructions (For example, (a)(8), (c)(17)(iii), etc.). Eligibility under 8 CFR 274a.12 ( ) ( ) ( )
10. Alien Registration Number (A-Number) or I-94 Number (if any) _____	

### Certification.

**Your Certification:** I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking. I have read the Instructions in Part 2 and have identified the appropriate eligibility category in Block 16.

Signature \_\_\_\_\_

Telephone Number \_\_\_\_\_

Date \_\_\_\_\_

**Signature of Person Preparing Form, If Other Than Above:** I declare that this document was prepared by me at the request of the applicant and is based on all information of which I have any knowledge.

Print Name \_\_\_\_\_

Address \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

	Initial Receipt	Resubmitted	Relocated		Completed		
			Rec'd	Sent	Approved	Denied	Returned





Employee \_\_\_\_\_ Case No. \_\_\_\_\_  
Station \_\_\_\_\_ Incident \_\_\_\_\_

Complainant's Name ( <i>Nombre</i> )		Address ( <i>Domicilio</i> )		Phone No. ( <i>Número de Teléfono</i> ) ( )
Age ( <i>Edad</i> )	Race ( <i>Raza</i> )	Sex ( <i>Sexo</i> ) M <input type="checkbox"/> F <input type="checkbox"/>	Occupation ( <i>Ocupación</i> )	
Name of Witness ( <i>Nombre de Testigo</i> )		Address ( <i>Domicilio</i> )		Phone No. ( <i>Número de Teléfono</i> ) ( )
				( )
				( )
				( )

Subject of Complaint ( <i>Persona de quien se queja</i> )	
If unknown, please provide description of the employee ( <i>Si usted no lo conoce, describa al empleado</i> )	
Name ( <i>Nombre</i> )	Description ( <i>Descripción</i> )

When did incident occur? ( <i>¿Cuándo ocurrió el incidente?</i> )				Location ( <i>¿Dónde ocurrió el incidente?</i> )
Month ( <i>Mes</i> )	Day ( <i>Día</i> )	Year ( <i>Año</i> )	Time ( <i>Hora</i> )	

Details of Complaint (Use additional sheet if necessary)	
<i>Detalles de la Queja (Uso papel adicional si es necesario)</i>	
I certify that, to the best of my knowledge and belief, all my statements are true, correct and made in good faith. (Yo declaro (certifico), a mi mejor conocimiento, que el testimonio hoy dado por mí, es verdadero, correcto y hecho en buena fe.	
_____ Signature of Complainant ( <i>Firma</i> )	

Time and Date Reported ( <i>Fecha y Hora del Reporte</i> )	Location Reported ( <i>Lugar donde se hizo el Reporte</i> )	Agency ( <i>Agencia</i> )
_____ Printed Name of Supervisor Receiving Complaint ( <i>Nombre en letra de molde del Supervisor Recibiendo Queja</i> )		_____ Signature of Supervisor Receiving Complaint ( <i>Firma del Supervisor Recibiendo Queja</i> )

**Instrucciones Para Llenar el Formulario Sus Denuncias Son Importantes**

Llene este formulario en la medida de lo posible y sea lo más específico que pueda en la descripción del incidente que denuncie. Si Usted no sabe el nombre del funcionario al que denuncia ni el de la entidad donde está empleado, describa los rasgos físicos de esa persona (estatura, peso, color de cabello, vello en la cara) y la ropa que llevaba (por ejemplo, uniforme negro con una insignia en el brazo). Es importante que Usted llene este formulario con letra tan clara y elgible como sea posible.

Usted no se perjudicará por haber presentado esta denuncia válida. Si recibe beneficios en forma lícita del Servicio de Inmigración y Naturalización como, por ejemplo, un permiso de trabajo, no los perderá por llenar este formulario.

Una vez llenado este formulario, doblelo a lo largo de las líneas de puntos, ciérrelo y échelo en cualquier buzón de correos de los Estados Unidos.

**U.S. DEPARTMENT OF JUSTICE**  
**IMMIGRATION AND NATURALIZATION SERVICE**

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE, \$300

**BUSINESS REPLY MAIL**

FIRST CLASS PERMIT NO. 13147 WASHINGTON, D.C.

POSTAGE WILL BE PAID BY THE IMMIGRATION AND NATURALIZATION SERVICE

OFFICE OF INTERNAL AUDIT  
IMMIGRATION AND NATURALIZATION SERVICE  
425 I STREET, N.W.  
WASHINGTON, D.C. 20536-0001

**Instructions For Filling Out This Form With Your Complaints**

Fill out this form describing the incident about which you wish to complain as specifically and completely as possible. If you do not know the names of the officials about whom you are complaining nor the organization they work for, describe the physical characteristics of the person (height, weight, color of hair, any facial hair) and the clothing they were wearing (for example, black uniform with a patch on the arm). It is important that you give as much information as possible, clearly and completely.

There will be no retaliation for submitting a complaint. Submitting this form will have no effect on your case or eligibility for any benefits to which you are entitled under the Immigration and Nationality Act.

After filling out this form, fold along the dotted lines, seal and mail in the postal system of the United States.

# Affidavit of Support Under Section 213A of the Act

## INSTRUCTIONS

### ***Purpose of this Form***

This form is required to show that an intending immigrant has adequate means of financial support and is not likely to become a public charge.

### ***Sponsor's Obligation***

The person completing this affidavit is the sponsor. A sponsor's obligation continues until the sponsored immigrant becomes a U.S. citizen, can be credited with 40 qualifying quarters of work, departs the United States permanently, or dies. Divorce does not terminate the obligation. By signing this form, you, the sponsor, agree to support the intending immigrant and any spouse and/or children immigrating with him or her and to reimburse any government agency or private entity that provides these sponsored immigrants with Federal, State, or local means-tested public benefits.

### ***General Filing Instructions***

Please answer all questions by typing or clearly printing in black ink only. Indicate that an item is not applicable with "N/A". If an answer is "none," please so state. If you need extra space to answer any item, attach a sheet of paper with your name and Social Security number, and indicate the number of the item to which the answer refers.

You must submit an affidavit of support for each applicant for immigrant status. You may submit photocopies of this affidavit for any spouse or children immigrating with an immigrant you are sponsoring. For purposes of this form, a spouse or child is immigrating with an immigrant you are sponsoring if he or she is: 1) listed in Part 3 of this affidavit of support; and 2) applies for an immigrant visa or adjustment of status within 6 months of the date this affidavit of support is originally completed and signed. The signature on the affidavit must be notarized by a notary public or signed before an Immigration or a Consular officer.

You should give the completed affidavit of support with all required documentation to the sponsored immigrant for submission to either a Consular Officer with Form OF-230, Application for Immigrant Visa and Alien Registration, or an Immigration Officer with Form I-485, Application to Register Permanent Residence or Adjust Status. You may enclose the affidavit of support and accompanying documents in a sealed envelope to be opened only by the designated Government official. The sponsored immigrant must submit the affidavit of support to the Government within 6 months of its signature.

### ***Who Needs an Affidavit of Support under Section 213A?***

This affidavit must be filed at the time an intending immigrant is applying for an immigrant visa or adjustment of status. It is required for:

- All immediate relatives, including orphans, and family-based immigrants. (Self-petitioning widow/ers and battered spouses and children are exempt from this requirement); and
- Employment-based immigrants where a relative filed the immigrant visa petition or has a significant ownership interest (5 percent or more) in the entity that filed the petition.

### ***Who Completes an Affidavit of Support under Section 213A?***

- For immediate relatives and family-based immigrants, the family member petitioning for the intending immigrant must be the sponsor.
- For employment-based immigrants, the petitioning relative or a relative with a significant ownership interest (5 percent or more) in the petitioning entity must be the sponsor. The term "relative," for these purposes, is defined as husband, wife, father, mother, child, adult son or daughter, brother, or sister.
- If the petitioner cannot meet the income requirements, a joint sponsor may submit an additional affidavit of support.

A sponsor, or joint sponsor, must also be:

- A citizen or national of the United States or an alien lawfully admitted to the United States for permanent residence;
- At least 18 years of age; and
- Domiciled in the United States or its territories and possessions.

### ***Sponsor's Income Requirement***

As a sponsor, your household income must equal or exceed 125 percent of the Federal poverty line for your household size. For the purpose of the affidavit of support, household size includes yourself, all persons related to you by birth, marriage, or adoption living in your residence, your dependents, any immigrants you have previously sponsored using INS Form I-864 if that obligation has not terminated, and the intending immigrant(s) in Part 3 of this affidavit of support. The poverty guidelines are calculated and published annually by the Department of Health and Human Services. Sponsors who are on active duty in the U.S. Armed Forces other than for training need only demonstrate income at 100 percent of the poverty line if they are submitting this affidavit for the purpose of sponsoring their spouse or child.

If you are currently employed and have an *individual* income which meets or exceeds 125 percent of the Federal poverty line or (100 percent, if applicable) for your household size, you do not need to list the income of any other person. When determining your income, you may include the income generated by individuals related to you by birth, marriage, or

<p>immigrant and any accompanying family members. A joint sponsor must individually meet the minimum requirement of 125 percent of the poverty line based on his or her household size and income and/or assets, including any assets of the sponsored immigrant.</p> <p>The Government may pursue verification of any information provided on or in support of this form, including employment, income, or assets with the employer, financial or other institutions, the Internal Revenue Service, or the Social Security Administration.</p> <p><b>Evidence of Income</b></p> <p>In order to complete this form you must submit the following evidence of income:</p> <ul style="list-style-type: none"><li>• A copy of your complete Federal income tax return, as filed with the Internal Revenue Service, for each of the most recent 3 tax years. If you were not required to file a tax return in any of the most recent 3 tax years, you must provide an explanation. If you filed a joint income tax return and are using only your own income to qualify, you must also submit copies of your W-2s for each of the most recent 3 tax years, and if necessary to meet the income requirement, evidence of other income reported on your tax returns, such as Forms 1099.</li><li>• If you rely on income of any members of your household or dependents in order to reach the minimum income requirement, copies of their Federal income tax returns for the most recent 3 tax years. These persons must each complete and sign a Form I-864A, Contract Between Sponsor and Household Member.</li><li>• Evidence of current employment or self-employment, such as a recent pay statement, or a statement from your employer on business stationery, showing beginning date of employment, type of work performed, and salary or wages paid. You must also provide evidence of current employment for any person whose income is used to qualify.</li></ul> <p><b>Evidence of Assets</b></p> <p>If you want to use your assets, the assets of your household members or dependents, and/or the assets of the immigrant you are sponsoring to meet the minimum income requirement, you must provide evidence of assets with a cash value that equals at least five times the difference between your total household income and the minimum income requirement. For the assets of a household member, other than the immigrant(s) you are sponsoring, to be considered, the household member must complete and sign Form I-864A, Contract Between Sponsor and Household Member.</p> <p>All assets must be supported with evidence to verify location, ownership, and value of each asset. Any liens and liabilities relating to the assets must be documented. List only assets that can be readily converted into cash within one year. Evidence of assets includes, but is not limited to the following:</p>	<p>adoption who are living in your residence, if they have lived in your residence for the previous 6 months, or who are listed as dependents on your most recent Federal income tax return whether or not they live in your residence. For their income to be considered, these household members or dependents must be willing to make their income available for the support of the sponsored immigrant(s) if necessary, and to complete and sign Form I-864A, Contract Between Sponsor and Household Member. However, a household member who is the immigrant you are sponsoring only need complete Form I-864A if his or her income will be used to determine your ability to support a spouse and/or children immigrating with him or her.</p> <p>If in any of the most recent 3 tax years, you and your spouse each reported income on a joint income tax return, but you want to use only your own income to qualify (and your spouse is not submitting a Form I-864A), you may provide a separate breakout of your individual income for these years. Your individual income will be based on the earnings from your W-2 forms, Wage and Tax Statement, submitted to IRS for any such years. If necessary to meet the income requirement, you may also submit evidence of other income listed on your tax returns which can be attributed to you. You must provide documentation of such reported income, including Forms 1099 sent by the payer, which show your name and Social Security number.</p> <p>You must calculate your household size and total household income as indicated in Parts 4.B. and 4.C. of this form. You must compare your total household income with the minimum income requirement for your household size using the poverty guidelines. For the purposes of the affidavit of support, determination of your ability to meet the income requirements will be based on the most recent poverty guidelines published in the Federal Register at the time the Consular or Immigration Officer makes a decision on the intending immigrant's application for an immigrant visa or adjustment of status. Immigration and Consular Officers will begin to use updated poverty guidelines on the first day of the second month after the date the guidelines are published in the Federal Register.</p> <p>If your total household income is equal to or higher than the minimum income requirement for your household size, you do not need to provide information on your assets, and you may <i>not</i> have a joint sponsor unless you are requested to do so by a Consular or Immigration Officer. If your total household income does not meet the minimum income requirement, the intending immigrant will be ineligible for an immigrant visa or adjustment of status, unless:</p> <ul style="list-style-type: none"><li>• You provide evidence of assets that meet the requirements outlined under "Evidence of Assets" below; and/or</li><li>• The immigrant you are sponsoring provides evidence of assets that meet the requirements under "Evidence of Assets" below; or</li><li>• A joint sponsor assumes the liability of the intending immigrant with you. A joint sponsor must execute a separate affidavit of support on behalf of the intending</li></ul>
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- Bank statements covering the last 12 months, *or* a statement from an officer of the bank or other financial institution in which you have deposits, including deposit/withdrawal history for the last 12 months, and current balance;
- Evidence of ownership and value of stocks, bonds, and certificates of deposit, and date(s) acquired;
- Evidence of ownership and value of other personal property, and date(s) acquired; and
- Evidence of ownership and value of any real estate, and date(s) acquired.

#### ***Change of Sponsor's Address***

You are required by 8 U.S.C. 1183a(d) and 8 CFR 213a.3 to report every change of address to the Immigration and Naturalization Service and the State(s) in which the sponsored immigrant(s) reside(s). You must report changes of address to INS on Form I-865, Sponsor's Notice of Change of Address, within 30 days of any change of address. You must also report any change in your address to the State(s) in which the sponsored immigrant(s) live.

#### ***Penalties***

If you include in this affidavit of support any material information that you know to be false, you may be liable for criminal prosecution under the laws of the United States.

If you fail to give notice of your change of address, as required by 8 U.S.C. 1183a(d) and 8 CFR 213a.3, you may be liable for the civil penalty established by 8 U.S.C. 1183a(d)(2). The amount of the civil penalty will depend on whether you failed to give this notice because you were aware that the immigrant(s) you sponsored had received Federal, State, or local means-tested public benefits.

#### ***Privacy Act Notice***

Authority for the collection of the information requested on this form is contained in 8 U.S.C. 1182(a)(4), 1183a, 1184(a), and 1258. The information will be used principally by the INS or by any Consular Officer to whom it is furnished, to support an alien's application for benefits under the Immigration and Nationality Act and specifically the assertion that he or she has adequate means of financial support and will not become a public charge. Submission of the information is voluntary. Failure to provide the information will result in denial of the application for an immigrant visa or adjustment of status.

The information may also, as a matter of routine use, be disclosed to other Federal, State, and local agencies or private entities providing means-tested public benefits for use in civil action against the sponsor for breach of contract. It may also be disclosed as a matter of routine use to other Federal, State, local, and foreign law enforcement and regulatory agencies to enable these entities to carry out their law enforcement responsibilities.

#### ***Reporting Burden***

A person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least

possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The reporting burden for this collection of information on Form I-864 is computed as follows: 1) learning about the form, 63 minutes; 2) completing the form, 105 minutes; and 3) assembling and filing the form, 65 minutes, for an estimated average of 3 hours and 48 minutes per response. The reporting burden for collection of information on Form I-864A is computed as: 1) learning about the form, 20 minutes; 2) completing the form, 55 minutes; 3) assembling and filing the form, 30 minutes, for an estimated average of 1 hour and 45 minutes per response. If you have comments regarding the accuracy of this estimates, or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4034, Washington, DC 20536. **DO NOT MAIL YOUR COMPLETED AFFIDAVIT OF SUPPORT TO THIS ADDRESS.**

### **CHECK LIST**

**The following items must be submitted with Form I-864, Affidavit of Support Under Section 213A:**

#### **For ALL sponsors:**

- ☐ This form, the **I-864**, **completed and signed** before a notary public or a Consular or Immigration Officer.
- ☐ Proof of **current employment** or self employment.
- ☐ Your individual Federal **income tax returns for the most recent 3 tax years**, or an explanation if fewer are submitted. Your **W-2s** for any of the most recent 3 tax years for which you filed a joint tax return but are using only your own income to qualify. Forms 1099 or evidence of other reported income *if necessary* to qualify.

#### **For SOME sponsors:**

- ☐ *If the immigrant you are sponsoring is bringing a spouse or children, **photocopies of the immigrant's affidavit of support** for each spouse and/or child immigrating with the immigrant you are sponsoring.*
- ☐ *If you are on active duty in the U.S. Armed Forces and are sponsoring a spouse or child using the 100 percent of poverty level exception, **proof of your active military status**.*

*If you are using the income of persons in your household or dependents to qualify,*

- ☐ A separate **Form I-864A** for each person whose income you will use. A sponsored immigrant/household member who is not immigrating with a spouse and/or child **does not need to complete Form I-864A**.
- ☐ Proof of their **residency and relationship** to you if they are not listed as dependents on your income tax return for the most recent tax year.
- ☐ Proof of their **current employment** or self-employment.



☐ Copies of their individual Federal income tax returns for the 3 most recent tax years, or an explanation if fewer are submitted.

*If you use your assets or the assets of the sponsored immigrant to qualify:*

☐ **Documentation of assets** establishing location, ownership, date of acquisition, and value. Evidence of any liens or liabilities against these assets.

☐ A separate **Form I-864A** for each household member other than the sponsored immigrant/household member.

*If you are a joint sponsor or the relative of an employment-based immigrant requiring an affidavit of support, proof of your citizenship status.*

☐ For U.S. citizens or nationals, a copy of your birth certificate, passport, or certificate of naturalization or citizenship.

☐ For lawful permanent residents, a copy of both sides of your I-551, Permanent Resident Card.

**U.S. Department of Justice**  
Immigration and Naturalization Service

**Affidavit of Support Under Section  
213A of the Act**

**START HERE - Please Type or Print**

**Part 1. Information on Sponsor (You)**

Last Name	First Name	Middle Name
Mailing Address ( <i>Street Number and Name</i> )		Apt/Suite Number
City		State or Province
Country	ZIP/Postal Code	Telephone Number

Place of Residence if different from above (*Street Number and Name*) Apt/Suite Number

City		State or Province
Country	ZIP/Postal Code	Telephone Number
Date of Birth ( <i>Month, Day, Year</i> )	Place of Birth ( <i>City, State, Country</i> )	Are you a U.S. Citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No
Social Security Number	A-Number ( <i>If any</i> )	

**FOR AGENCY USE ONLY**

This Affidavit      Receipt

☐ Meets

☐ Does not meet

Requirements of  
Section 213A

\_\_\_\_\_  
Officer or I.J.  
Signature

\_\_\_\_\_  
Location

\_\_\_\_\_  
Date

**Part 2. Basis for Filing Affidavit of Support**

I am filing this affidavit of support because (*check one*):

- a. ☐ I filed/am filing the alien relative petition.
- b. ☐ I filed/am filing an alien worker petition on behalf of the intending immigrant, who is related to me as my \_\_\_\_\_.  
(*relationship*)
- c. ☐ I have ownership interest of at least 5% \_\_\_\_\_.  
(*name of entity which filed visa petition*)  
which filed an alien worker petition on behalf of the intending immigrant, who is related to me as my \_\_\_\_\_.  
(*relationship*)
- d. ☐ I am a joint sponsor willing to accept the legal obligations with any other sponsor(s).

**Part 3. Information on the Immigrant(s) You Are Sponsoring**

Last Name	First Name	Middle Name
Date of Birth ( <i>Month, Day, Year</i> )	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Social Security Number ( <i>If any</i> )
Country of Citizenship	A-Number ( <i>If any</i> )	
Current Address ( <i>Street Number and Name</i> )	Apt/Suite Number	City
State/Province	Country	ZIP/Postal Code
		Telephone Number

List any spouse and/or children immigrating with the immigrant named above in this Part: (*Use additional sheet of paper if necessary.*)

Name	Relationship to Sponsored Immigrant			Date of Birth			A-Number ( <i>If any</i> )	Social Security ( <i>If any</i> )
	Spouse	Son	Daughter	Mo.	Day	Yr.		

To be a sponsor you must be a U.S. citizen or national or a lawful permanent resident. If you are not the petitioning relative, you must provide proof of status. To prove status, U.S. citizens or nationals must attach a copy of a document proving status, such as a U.S. passport, birth certificate, or certificate of naturalization, and lawful permanent residents must attach a copy of both sides of their Permanent Resident Card (Form I-551).

The determination of your eligibility to sponsor an immigrant will be based on an evaluation of your demonstrated ability to maintain an annual income at or above 125 percent of the Federal poverty line (100 percent if you are a petitioner sponsoring your spouse or child and you are on active duty in the U.S. Armed Forces). The assessment of your ability to maintain an adequate income will include your current employment, household size, and household income as shown on the Federal income tax returns for the 3 most recent tax years. Assets that are readily converted to cash and that can be made available for the support of sponsored immigrants if necessary, including any such assets of the immigrant(s) you are sponsoring, may also be considered.

The greatest weight in determining eligibility will be placed on current employment and household income. If a petitioner is unable to demonstrate ability to meet the stated income and asset requirements, a joint sponsor who *can* meet the income and asset requirements is needed. Failure to provide adequate evidence of income and/or assets or an affidavit of support completed by a joint sponsor will result in denial of the immigrant's application for an immigrant visa or adjustment to permanent resident status.

A. Sponsor's Employment

I am: ☐ 1. Employed by \_\_\_\_\_  
(Provide evidence of employment)

Annual salary \_\_\_\_\_ or hourly wage \$ \_\_\_\_\_ (for \_\_\_\_\_ hours per week)

☐ 2. Self employed \_\_\_\_\_  
(Name of business)

Nature of employment or business \_\_\_\_\_

☐ 3. Unemployed or retired since \_\_\_\_\_

B. Sponsor's Household Size

1. Number of persons (related to you by birth, marriage, or adoption) living in your residence, including yourself (Do NOT include persons being sponsored in this affidavit.) \_\_\_\_\_

2. Number of immigrants being sponsored in this affidavit (Include all persons in Part 3.) \_\_\_\_\_

3. Number of immigrants NOT living in your household whom you are obligated to support under a previously signed Form I-864. \_\_\_\_\_

4. Number of persons who are otherwise dependent on you, as claimed in your tax return for the most recent tax year. \_\_\_\_\_

5. Total household size. (Add lines 1 through 4.) \_\_\_\_\_

Total \_\_\_\_\_

List persons below who are included in lines 1 or 3 for whom you previously have submitted INS Form I-864, if your support obligation has not terminated.

(If additional space is needed, use additional paper)

Name	A-Number	Date Affidavit of Support Signed	Relationship

**C. Sponsor's Annual Household Income**

Enter total unadjusted income from your Federal income tax return for the most recent tax year below. If you last filed a joint income tax return but are using only your *own* income to qualify, list total earnings from your W-2 Forms, or, *if necessary* to reach the required income for your household size, include income from other sources listed on your tax return. If your *individual* income does not meet the income requirement for your household size, you may also list total income for anyone related to you by birth, marriage, or adoption currently living with you in your residence if they have lived in your residence for the previous 6 months, or any person shown as a dependent on your Federal income tax return for the most recent tax year, even if not living in the household. For their income to be considered, household members or dependents must be willing to make their income available for support of the sponsored immigrant(s) and to complete and sign Form I-864A, Contract Between Sponsor and Household Member. A sponsored immigrant/household member only need complete Form I-864A if his or her income will be used to determine your ability to support a spouse and/or children immigrating with him or her.

*You must attach evidence of current employment and copies of income tax returns as filed with the IRS for the most recent 3 tax years for yourself and all persons whose income is listed below. See "Required Evidence" in Instructions. Income from all 3 years will be considered in determining your ability to support the immigrant(s) you are sponsoring.*

- ☐ I filed a single/separate tax return for the most recent tax year.
- ☐ I filed a joint return for the most recent tax year which includes only my own income.
- ☐ I filed a joint return for the most recent tax year which includes income for my spouse and myself.
- ☐ I am submitting documentation of my individual income (Forms W-2 and 1099).
- ☐ I am qualifying using my spouse's income; my spouse is submitting a Form I-864A.

**Indicate most recent tax year**

(tax year)

Sponsor's individual income

\$ \_\_\_\_\_

**or**

Sponsor and spouse's combined income

\$ \_\_\_\_\_

*(If spouse's income is to be considered, spouse must submit Form I-864A.)*

Income of other qualifying persons.

*(List names; include spouse if applicable.**Each person must complete Form I-864A.)*

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

**Total Household Income**

\$ \_\_\_\_\_

Explain on separate sheet of paper if you or any of the above listed individuals were not required to file Federal income tax returns for the most recent 3 years, or if other explanation of income, employment, or evidence is necessary.

**D. Determination of Eligibility Based on Income**

1. ☐ I am subject to the 125 percent of poverty line requirement for sponsors.
- ☐ I am subject to the 100 percent of poverty line requirement for sponsors on active duty in the U.S. Armed Forces sponsoring their spouse or child.
2. Sponsor's total household size, from Part 4.B., line 5 \_\_\_\_\_.
3. Minimum income requirement from the Poverty Guidelines chart for the year of \_\_\_\_\_ is \$ \_\_\_\_\_ for this household size. (year)

**If you are currently employed and your household income for your household size is equal to or greater than the applicable poverty line requirement (from line D.3.), you do not need to list assets (Parts 4.E. and 5) or have a joint sponsor (Part 6) unless you are requested to do so by a Consular or Immigration Officer. You may skip to Part 7, Use of the Affidavit of Support to Overcome Public Charge Ground of Admissibility. Otherwise, you should continue with Part 4.E.**

Part 4. Eligibility to Sponsor

(Continued)

E. Sponsor's Assets and Liabilities

Your assets and those of your qualifying household members and dependents may be used to demonstrate ability to maintain an income at or above 125 percent (or 100 percent, if applicable) of the poverty line *if* they are available for the support of the sponsored immigrant(s) and can readily be converted into cash within 1 year. The household member, other than the immigrant(s) you are sponsoring, must complete and sign Form I-864A, Contract Between Sponsor and Household Member. List the cash value of each asset *after* any debts or liens are subtracted. Supporting evidence must be attached to establish location, ownership, date of acquisition, and value of each asset listed, including any liens and liabilities related to each asset listed. See "Evidence of Assets" in Instructions.

Part 5. Immigrant's Assets and Offsetting Liabilities

The sponsored immigrant's assets may also be used in support of your ability to maintain income at or above 125 percent of the poverty line *if* the assets are or will be available in the United States for the support of the sponsored immigrant(s) and can readily be converted into cash within 1 year.

The sponsored immigrant should provide information on his or her assets in a format similar to part 4.E. above. Supporting evidence must be attached to establish location, ownership, and value of each asset listed, including any liens and liabilities for each asset listed. See "Evidence of Assets" in Instructions.

Part 6. Joint Sponsors

If household income and assets do not meet the appropriate poverty line for your household size, a joint sponsor is required. There may be more than one joint sponsor, but each joint sponsor must individually meet the 125 percent of poverty line requirement based on his or her household income and/or assets, including any assets of the sponsored immigrant. By submitting a separate Affidavit of Support under Section 213A of the Act (Form I-864), a joint sponsor accepts joint responsibility with the petitioner for the sponsored immigrant(s) until they become U.S. citizens, can be credited with 40 quarters of work, leave the United States permanently, or die.

Part 7. Use of the Affidavit of Support to Overcome Public Charge Ground of Inadmissibility

Section 212(a)(4)(C) of the Immigration and Nationality Act provides that an alien seeking permanent residence as an immediate relative (including an orphan), as a family-sponsored immigrant, or as an alien who will accompany or follow to join another alien is considered to be likely to become a public charge and is inadmissible to the United States unless a sponsor submits a legally enforceable affidavit of support on behalf of the alien. Section 212(a)(4)(D) imposes the same requirement on an employment-based immigrant, and those aliens who accompany or follow to join the employment-based immigrant, if the employment-based immigrant will be employed by a relative, or by a firm in which a relative owns a significant interest. Separate affidavits of support are required for family members at the time they immigrate if they are not included on this affidavit of support or do not apply for an immigrant visa or adjustment of status within 6 months of the date this affidavit of support is originally signed. The sponsor must provide the sponsored immigrant(s) whatever support is necessary to maintain them at an income that is at least 125 percent of the Federal poverty guidelines.

*I submit this affidavit of support in consideration of the sponsored immigrant(s) not being found inadmissible to the United States under section 212(a)(4)(C) (or 212(a)(4)(D) for an employment-based immigrant) and to enable the sponsored immigrant(s) to overcome this ground of inadmissibility. I agree to provide the sponsored immigrant(s) whatever support is necessary to maintain the sponsored immigrant(s) at an income that is at least 125 percent of the Federal poverty guidelines. I understand that my obligation will continue until my death or the sponsored immigrant(s) have become U.S. citizens, can be credited with 40 quarters of work, depart the United States permanently, or die.*



**Notice of Change of Address.**

Sponsors are required to provide written notice of any change of address within 30 days of the change in address until the sponsored immigrant(s) have become U.S. citizens, can be credited with 40 quarters of work, depart the United States permanently, or die. To comply with this requirement, the sponsor must complete INS Form I-865. Failure to give this notice may subject the sponsor to the civil penalty established under section 213A(d)(2) which ranges from \$250 to \$2,000, unless the failure to report occurred with the knowledge that the sponsored immigrant(s) had received means-tested public benefits, in which case the penalty ranges from \$2,000 to \$5,000.

*If my address changes for any reason before my obligations under this affidavit of support terminate, I will complete and file INS Form I-865, Sponsor's Notice of Change of Address, within 30 days of the change of address. I understand that failure to give this notice may subject me to civil penalties.*

**Means-tested Public Benefit Prohibitions and Exceptions.**

Under section 403(a) of Public Law 104-193 (Welfare Reform Act), aliens lawfully admitted for permanent residence in the United States, with certain exceptions, are ineligible for most Federally-funded means-tested public benefits during their first 5 years in the United States. This provision does not apply to public benefits specified in section 403(c) of the Welfare Reform Act or to State public benefits, including emergency Medicaid; short-term, non-cash emergency relief; services provided under the National School Lunch and Child Nutrition Acts; immunizations and testing and treatment for communicable diseases; student assistance under the Higher Education Act and the Public Health Service Act; certain forms of foster-care or adoption assistance under the Social Security Act; Head Start programs; means-tested programs under the Elementary and Secondary Education Act; and Job Training Partnership Act programs.

**Consideration of Sponsor's Income in Determining Eligibility for Benefits.**

If a permanent resident alien is no longer statutorily barred from a Federally-funded means-tested public benefit program and applies for such a benefit, the income and resources of the sponsor and the sponsor's spouse will be considered (or deemed) to be the income and resources of the sponsored immigrant in determining the immigrant's eligibility for Federal means-tested public benefits. Any State or local government may also choose to consider (or deem) the income and resources of the sponsor and the sponsor's spouse to be the income and resources of the immigrant for the purposes of determining eligibility for their means-tested public benefits. The attribution of the income and resources of the sponsor and the sponsor's spouse to the immigrant will continue until the immigrant becomes a U.S. citizen or has worked or can be credited with 40 qualifying quarters of work, provided that the immigrant or the worker crediting the quarters to the immigrant has not received any Federal means-tested public benefit during any creditable quarter for any period after December 31, 1996.

*I understand that, under section 213A of the Immigration and Nationality Act (the Act), as amended, this affidavit of support constitutes a contract between me and the U.S. Government. This contract is designed to protect the United States Government, and State and local government agencies or private entities that provide means-tested public benefits, from having to pay benefits to or on behalf of the sponsored immigrant(s), for as long as I am obligated to support them under this affidavit of support. I understand that the sponsored immigrants, or any Federal, State, local, or private entity that pays any means-tested benefit to or on behalf of the sponsored immigrant(s), are entitled to sue me if I fail to meet my obligations under this affidavit of support, as defined by section 213A and INS regulations.*

**Civil Action to Enforce.**

If the immigrant on whose behalf this affidavit of support is executed receives any Federal, State, or local means-tested public benefit before this obligation terminates, the Federal, State, or local agency or private entity may request reimbursement from the sponsor who signed this affidavit. If the sponsor fails to honor the request for reimbursement, the agency may sue the sponsor in any U.S. District Court or any State court with jurisdiction of civil actions for breach of contract. INS will provide names, addresses, and Social Security account numbers of sponsors to benefit-providing agencies for this purpose. Sponsors may also be liable for paying the costs of collection, including legal fees.

Part 7. Use of the Affidavit of Support to Overcome Public Charge Grounds (Continued)

I acknowledge that section 213A(a)(1)(B) of the Act grants the sponsored immigrant(s) and any Federal, State, local, or private agency that pays any means-tested public benefit to or on behalf of the sponsored immigrant(s) standing to sue me for failing to meet my obligations under this affidavit of support. I agree to submit to the personal jurisdiction of any court of the United States or of any State, territory, or possession of the United States if the court has subject matter jurisdiction of a civil lawsuit to enforce this affidavit of support. I agree that no lawsuit to enforce this affidavit of support shall be barred by any statute of limitations that might otherwise apply, so long as the plaintiff initiates the civil lawsuit no later than ten (10) years after the date on which a sponsored immigrant last received any means-tested public benefits.

Collection of Judgment.

I acknowledge that a plaintiff may seek specific performance of my support obligation. Furthermore, any money judgment against me based on this affidavit of support may be collected through the use of a judgment lien under 28 U.S.C. 3201, a writ of execution under 28 U.S.C. 3203, a judicial installment payment order under 28 U.S.C. 3204, garnishment under 28 U.S.C. 3205, or through the use of any corresponding remedy under State law. I may also be held liable for costs of collection, including attorney fees.

Concluding Provisions.

I, \_\_\_\_\_, certify under penalty of perjury under the laws of the United States that:

- (a) I know the contents of this affidavit of support signed by me;
- (b) All the statements in this affidavit of support are true and correct;
- (c) I make this affidavit of support for the consideration stated in Part 7, freely, and without any mental reservation or purpose of evasion;
- (d) Income tax returns submitted in support of this affidavit are true copies of the returns filed with the Internal Revenue Service; and
- (e) Any other evidence submitted is true and correct.

_____ (Sponsor's Signature)		_____ (Date)	
Subscribed and sworn to (or affirmed) before me this			
_____ day of _____,		_____	
(Month)		(Year)	
at _____			
My commission expires on _____.			
_____ (Signature of Notary Public or Officer Administering Oath)			
_____ (Title)			

Part 8. If someone other than the sponsor prepared this affidavit of support, that person must complete the following:

I certify under penalty of perjury under the laws of the United States that I prepared this affidavit of support at the sponsor's request, and that this affidavit of support is based on all information of which I have knowledge.

Signature		Print Your Name		Date	Daytime Telephone Number
Firm Name and Address					

## 2004 Poverty Guidelines\*

### Minimum Income Requirement For Use in Completing Form I-864

**For the 48 Contiguous States, the District of Columbia, Puerto Rico,  
the U.S. Virgin Islands, and Guam:**

<u>Sponsor's Household Size</u>	<u>100% of Poverty Line</u> For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child.	<u>125% of Poverty Line</u> For all other sponsors
2	\$12,490	\$15,612
3	15,670	19,587
4	18,850	23,562
5	22,030	27,537
6	25,210	31,512
7	28,390	35,487
8	31,570	39,462
	Add \$3,180 for each additional person.	Add \$3,975 for each additional person.

For Alaska			For Hawaii		
<u>Sponsor's Household Size</u>	<u>100% of Poverty Line</u> For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child	<u>125% of Poverty Line</u> For all other sponsors	<u>100% of Poverty Line</u> For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child	<u>125% of Poverty Line</u> For all other sponsors	
2	\$15,610	\$19,512	\$14,360	\$17,950	
3	19,590	24,487	18,020	22,525	
4	23,570	29,462	21,680	27,100	
5	27,550	34,437	25,340	31,675	
6	31,530	39,412	29,000	36,250	
7	35,510	44,387	32,660	40,825	
8	39,490	49,362	36,320	45,400	
	Add \$3,980 for each additional person.	Add \$4,975 for each additional person.	Add \$3,660 for each additional person.	Add \$4,575 for each additional person.	

### Means-tested Public Benefits

**Federal Means-tested Public Benefits.** To date, Federal agencies administering benefit programs have determined that Federal means-tested public benefits include Food Stamps, Medicaid, Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), and the State Child Health Insurance Program (SCHIP).

**State Means-tested Public Benefits.** Each State will determine which, if any, of its public benefits are means-tested. If a State determines that it has programs which meet this definition, it is encouraged to provide notice to the public on which programs are included. Check with the State public assistance office to determine which, if any, State assistance programs have been determined to be State means-tested public benefits.

**Programs Not Included:** The following Federal and State programs are *not* included as means-tested benefits: emergency Medicaid; short-term, non-cash emergency relief; services provided under the National School Lunch and Child Nutrition Acts; immunizations and testing and treatment for communicable diseases; student assistance under the Higher Education Act and the Public Health Service Act; certain forms of foster-care or adoption assistance under the Social Security Act; Head Start Programs; means-tested programs under the Elementary and Secondary Education Act; and Job Training Partnership Act programs.

\* These poverty guidelines remain in effect for use with the Form I-864 Affidavit of Support from April 1, 2004 until new poverty guidelines go into effect in the Spring of 2005.



## Contract Between Sponsor and Household Member

Sponsor's Name ( <i>Last, First, Middle</i> )	Social Security Number	A-Number (If any)
---	------------------------	-------------------

### General Filing Instruction

Form I-864A, Contract Between Sponsor and Household Member, is an attachment to Form I-864, Affidavit of Support Under Section 213A of the Immigration and Nationality Act (the Act). The sponsor enters the information above, completes Part 2 of this form, and signs in Part 5. The household member completes Parts 1 and 3 of this form and signs in Part 6. A household member who is also the sponsored immigrant completes Parts 1 and 4 (instead of Part 3) of this form and signs in Part 6. The Privacy Act Notice and information on penalties for misrepresentation or fraud are included on the instructions to Form I-864.

The signatures on the I-864A must be notarized by a notary public or signed before an immigration or consular officer. A separate form must be used for each household member whose income and/or assets are being used to qualify. This blank form may be photocopied for that purpose. A sponsored immigrant who qualifies as a household member is only required to complete this form if he or she has one or more family members immigrating with him or her and is making his or her *income* available for their support. Sponsored immigrants who are using their *assets* to qualify are not required to complete this form. This completed form is submitted with Form I-864 by the sponsored immigrant with an application for an immigrant visa or adjustment of status.

### Purpose

This contract is intended to benefit the sponsored immigrant(s) and any agency of the Federal Government, any agency of a State or local government, or any private entity to which the sponsor has an obligation under the affidavit of support to reimburse for benefits granted to the sponsored immigrant, and these parties will have the right to enforce this contract in a court with appropriate jurisdiction. Under Section 213A of Act, this contract must be completed and signed by the sponsor and any household member, including the sponsor's spouse, whose income is included as household income by a person sponsoring one or more immigrants. The contract must also be completed if a sponsor is relying on the assets of a household member who is not the sponsored immigrant to meet the income requirements. If the sponsored immigrant is a household member immigrating with a spouse or children, and is using his or her income to assist the sponsor in meeting the income requirement, he or she must complete and sign this contract as a "sponsored immigrant/household member."

By signing this form, a household member, who is not a sponsored immigrant, agrees to make his or her income and/or assets available to the sponsor to help support the immigrant(s) for whom the sponsor has filed an affidavit of support and to be responsible, along with the sponsor, to pay any debt incurred by the sponsor under the affidavit of support. A sponsored immigrant/household member who signs this contract agrees to make his or her income available to the sponsor to help support any spouse or children immigrating with him or her and to be responsible, along with the sponsor, to pay any debt incurred by the sponsor under the affidavit of support. The obligations of the household member and the sponsored immigrant/household member under this contract terminate when the obligations of the sponsor under the affidavit of support terminate. For additional information see section 213A of the Act, part 213a of title 8 of the Code of Federal Regulations, and Form I-864, Affidavit of Support Under Section 213A of the Act.

### Definitions:

- 1) An "affidavit of support" refers to Form I-864, Affidavit of Support Under Section 213A of the Act, which is complete and filed by the sponsor.
- 2) A "sponsor" is a person, either the petitioning relative, the relative with a significant ownership interest in the petitioning entity, or another person accepting joint and several liability with the sponsor, who completes and files the Affidavit of Support under Section 213A of the Act on behalf of a sponsored immigrant.
- 3) A "household member" is any person (a) sharing a residence with the sponsor for at least the last 6 months who is related to the sponsor by birth, marriage, or adoption, *or* (b) whom the sponsor has lawfully claimed as a dependent on the sponsor's most recent federal income tax return even if that person does not live at the same residence as the sponsor, *and* whose income and/or assets will be used to demonstrate the sponsor's ability to maintain the sponsored immigrant(s) at an annual income at the level specified in section 213A(f)(1)(E) or 213A(f)(3) of the Act.
- 4) A "sponsored immigrant" is a person listed on this form on whose behalf an affidavit of support will be completed and filed.
- 5) A "sponsored immigrant/household member" is a sponsored immigrant who is also a household member.



- 4) Certify under penalty of perjury under the laws of the United States that all the information provided on this form is true and correct to the best of my knowledge and belief and that the income tax returns I submitted in support of the sponsor affidavit are true copies of the returns filed with the Internal Revenue Service.
- 3) Agree to submit to the personal jurisdiction of any court of the United States or of any state, territory, or possession of the United States if the court has subject matter jurisdiction of a civil lawsuit to enforce this contract or the affidavit of support; and
- 2) Agree to be jointly and severally liable for payment of any and all obligations owed by the sponsor under the affidavit of support to the sponsored immigrant(s), to any agency of the Federal Government, to any agency of a state or local government, or to any private entity;
- 1) Promise to provide any and all financial support necessary to assist the sponsor in maintaining the sponsored immigrant(s) at or above the minimum income provided for in section 213A(a)(1)(A) of the Act (not less than 125 percent of the Federal Poverty Guidelines) during the period in which the affidavit of support is enforceable;
- promise to complete and file the affidavit of support on behalf of the sponsored immigrant(s):

**I, THE HOUSEHOLD** \_\_\_\_\_, in consideration of the sponsor's \_\_\_\_\_  
*(Print name of household member)*

**Part 3. Household Member's Promise**

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Name of Sponsored Immigrant  
*(First, Middle, Last)*

Date of Birth  
*(Month, Day, Year)*

Social Security Number  
*(If any)*

A-Number  
*(If any)*

**I, THE SPONSOR**, \_\_\_\_\_, in consideration of the household member's promise to support the sponsored immigrant(s) and to be jointly and severally liable for any obligations I incur under the affidavit of support, promise to complete and file an affidavit of support on behalf of the following \_\_\_\_\_ sponsored immigrant(s):  
*(Indicate number)*

**Part 2. Sponsor's Promise**

Telephone Number ( ) ( )		Relationship to Sponsor: I am: <input type="checkbox"/> The sponsor's household member. <i>(Complete Part 3.)</i> <input type="checkbox"/> The sponsored immigrant/household member. <i>(Complete Part 3.)</i>		Length of residence with sponsor _____ years, _____ months	
Address <i>(Street Number and Name)</i>		Apt Number	City	State/Province	ZIP/Postal Code
Date of Birth <i>(Month, Day, Year)</i>		Social Security Number <i>(Mandatory for non-citizens; voluntary for U.S. citizens)</i>		A-Number <i>(If any)</i>	
Last Name		First Name		Middle Name	

**Part 1. Information on Sponsor's Household Member or Sponsored Immigrant/Household Member**

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## Part 4. Sponsored Immigrant/Household Member's Promise

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### I, THE SPONSORED IMMIGRANT/HOUSEHOLD

(Print name of sponsored immigrant)

in consideration of the sponsor's promise to complete and file the affidavit of support on behalf of the sponsored immigrant(s) accompanying me:

- 1) Promise to provide any and all financial support necessary to assist the sponsor in maintaining any sponsored immigrant(s) immigrating with me at or above the minimum income provided for in section 213A(a)(1)(A) of the Act (not less than 125 percent of the Federal Poverty Guidelines) during the period in which the affidavit of support is enforceable;
- 2) Agree to be jointly and severally liable for payment of any and all obligations owed by the sponsor under the affidavit of support to any sponsored immigrant(s) immigrating with me, to any agency of the Federal Government, to any agency of a state or local government, or to any private entity;
- 3) Agree to submit to the personal jurisdiction of any court of the United States or of any state, territory, or possession of the United States if the court has subject matter jurisdiction of a civil lawsuit to enforce this contract or the affidavit of support; and
- 4) Certify under penalty of perjury under the laws of the United States that all the information provided on this form is true and correct to the best of my knowledge and belief and that the income tax returns I submitted in support of the sponsor's affidavit of support are true copies of the returns filed with the Internal Revenue Service.

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## Part 5. Sponsor's Signature

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\_\_\_\_\_  
*Sponsor's Signature*

Subscribed and sworn to (*or affirmed*) before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(Month) (Year)

at \_\_\_\_\_. My commission expires on \_\_\_\_\_.

\_\_\_\_\_  
*Signature of Notary Public or Officer Administering Oath*

\_\_\_\_\_  
*Title*

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## Part 6. Household Member's or Sponsored Immigrant/Household Member's Signature

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\_\_\_\_\_  
*Household Member's or Sponsored Immigrant/Household Member's Signature*

Subscribed and sworn to (*or affirmed*) before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(Month) (Year)

at \_\_\_\_\_. My commission expires on \_\_\_\_\_.

\_\_\_\_\_  
*Signature of Notary Public or Officer Administering Oath*

\_\_\_\_\_  
*Title*





## INSTRUCTIONS FOR IMMIGRANT VISA APPLICANTS

This office has received evidence entitling you to immigrant visa status. While no assurance can be given regarding the date of your visa interview appointment, you should now prepare for that appointment by taking the following three steps:

**FIRST:** Complete and send immediately to the consular office processing your case the enclosed Form OF-230 PART I, APPLICATION FOR IMMIGRANT VISA AND ALIEN REGISTRATION (Biographic Data). The consular office cannot process your case until this form is received.

**SECOND:** Obtain the following documents on this checklist which pertain to you. As you obtain each document, check the box before each item. Do NOT send them to the consular office.

☐ **1.PASSPORTS:** A Passport must be valid for travel to the United States and must have at least six months validity beyond the issuance date of the visa. Children may be included on a parent's passport, but if over the age of 16, they must have their photographs attached to the passport.

☐ **2.BIRTH CERTIFICATES:** One certified copy of the birth certificate of each person named in the application is required. Birth records must be presented for all unmarried children under age 21, even if they do not wish to immigrate at this time. (If children are deceased, so state giving year of death.) The certificate must state the date and place of birth and the names of both parents. The certificate must also indicate that it is an extract from official records. If you, or any children were adopted, you must submit a certified copy of the final adoption decree. Photostatic copies are acceptable provided the original is offered for inspection by the consular officer.

**UNOBTAINABLE BIRTH CERTIFICATE:** In rare cases, it may be impossible to obtain a birth certificate because records have been destroyed or the government will not issue one. In such cases, you should obtain a statement to that effect from the civil registrar's office and proceed to obtain secondary evidence of birth. A baptismal certificate may be submitted for consideration provided it contains the date and place of the applicant's birth and information concerning parentage and provided the baptism took place shortly after birth. Should a baptismal certificate be unobtainable, a close relative, preferably the applicant's mother, should prepare a notarized statement giving the place and date of the applicant's birth, the names of both parents, and the maiden name of the mother. The statement must be executed before an official authorized to administer oaths or affirmations. In such cases, please bring any secondary evidence you might have concerning your birth.

☐ **3.POLICE CERTIFICATES:** Each visa application aged 16 years or over is required to submit a police certificate from the police authorities of each locality of the country of the applicant's nationality or current residence where the applicant has resided for at least six months since attaining the age of sixteen. Police certificates are also required from all other countries where the applicant has resided for at least one year. A police certificate must also be obtained from the police authorities of any place where the applicant has been arrested for any reason, regardless of how long he or she lived there. Police certificates must cover the entire period of the applicant's residence in any area. A certificate issued by the police authorities where you now reside must be of recent date when presented to the consular officer. The term "police certificate" as used in this paragraph means a certification by appropriate police authorities stating what their records show concerning each applicant, including all arrests, the reasons for the arrests, and the disposition of each case of which there is a record.

Police certificates from certain countries are considered unobtainable. See the attached list on form DSL-1083. If specific questions arise regarding police certificates, please consult the consular office.

☐ **4.COURT AND PRISON RECORDS:** Persons who have been convicted of a crime must obtain a certified copy of each court record and of any prison record, regardless of the fact that they may have benefited subsequently from an amnesty, pardon, or other act of clemency.

☐ **5.MILITARY RECORDS:** A certified copy of any military record, if applicable and obtainable, is required.

☐ **6.PHOTOGRAPHS:** Two (2) color photographs with white background on glossy paper, unretouched, and unmounted are required. The photograph must be a three-quarter frontal portrait with the right side of the face and right ear visible. The dimensions of the facial image must measure about one inch (30mm) from chin to top of hair. No head covering or dark glasses should be worn.

☐ **7.EVIDENCE OF SUPPORT:** Form I-864, a contractual affidavit of support, must be submitted for most family-based applicants and employment-based applicants when a relative is the petitioner or has ownership interest in the petitioning business. The enclosed information sheet provides guidance for preparing the I-864. Other applicants must show evidence that they are not likely to become public charges while in the United States.

☐ **8. MARRIAGE CERTIFICATES:** Married persons are required to present a certified copy of their marriage certificate. Proof of the termination of any previous marriage must also be submitted (e.g. death certificate of spouse; final decrees of divorce or annulment).

☐ **9. ORIGINAL DOCUMENTS:** If you are the beneficiary of a family-based immigrant visa petition, you must be prepared to present the originals of all civil documents which establish your claimed relationship to the petitioner.

☐ **10. TRANSLATIONS:** All documents not in English, or in the official language of the country in which application for a visa is being made, must be accompanied by certified English translations. Translations must be certified by a competent translator and sworn to before a Notary Public. ( All \_\_\_\_\_ documents in Japanese must be translated.)

ONLY ONE COPY OF EACH DOCUMENT, EXCEPT PHOTOGRAPHS, MUST BE SUBMITTED WITH THE VISA APPLICATION. YOU ARE ADVISED, HOWEVER, TO OBTAIN THE NECESSARY DOCUMENTS IN DUPLICATE, AS THIS WILL ENABLE YOU TO PROVIDE IDENTICAL COPIES IN THE EVENT THE FIRST SET IS LOST OR DAMAGED.

### PLEASE READ THE FOLLOWING CAREFULLY

**THIRD:** As soon as you have obtained all of documents that apply to your case, carefully read the statement at the bottom of this page, sign and date it, and send the form to the consular office processing your case. You will not be scheduled for an appointment until you sign and return the checklist.

After this form has been sent to the consular office, you will be scheduled for a visa interview at the earliest possible date. It is not possible to predict when this will be since it depends upon when the priority date for your visa category and country becomes current. You will receive an appointment letter along with instructions for a medical examination approximately one month before your scheduled interview with a consular officer. You may not receive any further correspondence from the consular office until the appointment is scheduled.

The total fee for an immigrant visa is U.S. \$325, or local currency equivalent. Each applicant must be prepared to pay this fee on the appointment date.

You need not check with the consular office unless you have to report a CHANGE OF ADDRESS or change in your situation such as marriage, death of petitioner, or birth of children. Please do not send any documents to the consular office unless you are specifically requested to do so.

#### Enclosures:

1. Optional Form 230 I, Application Immigrant Visa and Alien Registration - Biographic Data
2. Form DSL-1083, Immigrant Visa Supplemental Information Sheet
3. Form I-864, Affidavit of Support and Checklist

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### APPLICANT'S STATEMENT

I have in my possession and am prepared to present all the documents listed in items 1 through 10 which apply to my case, as indicated by the check mark I have placed in the appropriate boxes. I fully realize that no advance assurance can be given when or whether a visa will actually be issued to me and I also understand that I should NOT give up my job, dispose of property, or make any final travel arrangements until a visa is actually issued to me. When it is possible for me to receive an appointment to make formal visa application, I intended to apply: (check appropriate boxes)

- ☐ 1. Alone
- ☐ 2. Together with my spouse (Print first name: \_\_\_\_\_)
- ☐ 3. Together with my spouse and the following minor children: (Print first names of each child who will accompany you)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

CURRENT ADDRESS: \_\_\_\_\_

\_\_\_\_\_

YOU WILL NOT BE SCHEDULED FOR AN APPOINTMENT UNTIL YOU SUBMIT THIS FORM.

**PLEASE DO NOT SEND ANY DOCUMENTS TO THIS OFFICE.**

IT IS YOUR RESPONSIBILITY TO KEEP THE CONSULAR OFFICE INFORMED OF YOUR CURRENT ADDRESS AT ALL TIMES



Application or  
Petition Form No. \_\_\_\_\_

File No. \_\_\_\_\_

**DATA COLLECTION FOR ALIEN DOCUMENTATION,  
IDENTIFICATION & TELECOMMUNICATION SYSTEM (ADIT)**

Please print or type information requested below:

COMPLETE NAME \_\_\_\_\_

COMPLETE MAILING ADDRESS (Include zip code) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MOTHER'S FIRST NAME \_\_\_\_\_

FATHER'S FIRST NAME \_\_\_\_\_

CITY/TOWN/VILLAGE OF BIRTH \_\_\_\_\_

CITY OF RESIDENCE WHEN APPLYING  
FOR A VISA OR IMMIGRANT STATUS \_\_\_\_\_CITY OF DESTINATION AT  
TIME OF ORIGINAL ADMISSION \_\_\_\_\_LOCATION OF CONSULATE WHERE IMMIGRANT VISA  
OBTAINED (OR IMMIGRATION OFFICE WHERE ADJUSTED) \_\_\_\_\_

DATE OF BIRTH \_\_\_\_\_

PORT OF ENTRY WHEN ADMITTED AS IMMIGRANT OR  
OFFICE WHERE ADJUSTED TO LAWFUL PERMANENT RESIDENT \_\_\_\_\_

SYMBOL ADMITTED UNDER (CLASSIFICATION) \_\_\_\_\_

DATE ADMITTED OR ADJUSTED TO LAWFUL PERMANENT RESIDENT \_\_\_\_\_

COUNTRY OF BIRTH \_\_\_\_\_

CARD NUMBER \_\_\_\_\_

TRANSACTION NUMBER \_\_\_\_\_





## Tear-Out Checklists

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### Checklists for Chapter 5, Overseas Fiancés of U.S. Citizens:

Checklist for K-1 Fiancé Visa Petition .....	K-1Petition.pdf
Checklist for Fiancé Mailing to Consulate .....	FianceMailing.pdf
Checklist for Fiancé Appointment Package .....	FianceAppointment.pdf

### Checklists for Chapter 7, Overseas Spouses of U.S. Citizens:

Checklist for Marriage-Based Immigrant Visa Petition .....	CitizenPetition.pdf
Checklist for Packet for Mailing to the NVC .....	CitizenMailing.pdf
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### Checklist for K-1 Fiancé Visa Petition

- ☐ Form I-129F
- ☐ Form G-325A (one filled out by you and one by your fiancé)
- ☐ A color photo of you
- ☐ A color photo of your fiancé
- ☐ Fee (currently \$165; double check at [www.uscis.gov](http://www.uscis.gov))
- ☐ Proof of the U.S. citizenship of your petitioner: a birth certificate, passport, naturalization certificate, or Report of Birth Abroad of a United States Citizen
- ☐ Proof that the two of you are legally able to marry
- ☐ A statement written by your U.S. citizen petitioner describing how you met
- ☐ Proof that the two of you have met within the last two years, or that you qualify for an exception to this requirement
- ☐ Additional proof that the two of you truly intend to marry, whether or not you have met in person.





### Checklist for Fiancé Mailing to Consulate

- ☐ Form DS-156, prepared in duplicate
- ☐ Form DS-156K (filled in, but unsigned)
- ☐ Form DS-230 Part I.



## Checklist for Fiancé Appointment Package

- ☐ Original INS or USCIS Notice of Action approving your K-1, or fiancé, visa petition
- ☐ A complete copy of your Fiancé Visa Petition in case USCIS did not forward it to the consulate
- ☐ Originals of documents submitted in connection with the visa petition, such as your fiancé's U.S. birth certificate and proof that any previous marriages were legally ended
- ☐ Form DS-230 Part II
- ☐ Form I-134, Affidavit of Support, if the consulate requested it
- ☐ Documents to accompany Form I-134, including:
  - ☐ Proof of U.S. citizen's employment
  - ☐ Copy of U.S. citizen's most recent federal tax return
  - ☐ Letter from U.S. citizen's bank(s) confirming the account(s)
- ☐ Form DS-1858, Sponsor's Financial Responsibility Under the Social Security Act
- ☐ A valid passport from your home country, good for at least six months
- ☐ Your original birth certificate
- ☐ An original police clearance certificate, if this is available in your country (the instructions from the consulate will tell you)
- ☐ Three additional photographs of you, the immigrating fiancé
- ☐ Fingerprints (you'll receive instructions from the consulate)
- ☐ Results of your medical examination, in an unopened envelope
- ☐ Additional documents proving your relationship (to cover the time period since submitting the fiancé visa petition), such as copies of:
  - ☐ phone bills showing calls to one another
  - ☐ correspondence between you
  - ☐ photos taken together while one fiancé visited the other
- ☐ Any other items or forms requested by the consulate
- ☐ Application fee (currently \$100).





## Checklist for Marriage-Based Immigrant Visa Petition

This checklist shows every form, document, and other item needed for the initial visa petition that your spouse, with your help, will assemble and submit to USCIS.

- ☐ Form I-130
- ☐ Documents to accompany Form I-130:
  - ☐ Your marriage certificate
  - ☐ Proof of the U.S. citizen status of your petitioning spouse
  - ☐ Proof of termination of all previous marriages, such as a copy of a death, divorce, or annulment certificate
  - ☐ One color photo of you
  - ☐ One color photo of your spouse
  - ☐ Fees: currently \$185, but double check this at [www.uscis.gov](http://www.uscis.gov)
- ☐ Form G-325A, Biographic Information, filled out by you
- ☐ Form G-325A, Biographic Information, filled out by your spouse.



### Checklist for Packet for Mailing to the NVC

- ☐ Form DS-230 Part I
- ☐ Form OF-169 or DS-2001.



## Checklist for Immigrant Visa Appointment Packet

This checklist lists every form, document, and other item included in the packet that your spouse, with your help, will need to assemble in preparation for your immigrant visa interview.

- ☐ Form DS 230-II
- ☐ Form I-864, Affidavit of Support (the original, or the copy if you were required to send the original to the NVC for prior approval)
- ☐ Documents to accompany Form I-864:
  - ☐ A copy of your spouse/sponsor's federal income tax returns for the last three years, with W-2s
  - ☐ Proof of your sponsor's current employment
  - ☐ A list of assets, (the sponsor's and/or the immigrant's) if they must be used to meet the *Poverty Guidelines'* minimum
  - ☐ Proof of ownership of assets (the sponsor's and/or the immigrant's), if any were listed
  - ☐ If sponsor or sponsor's dependents have used financial need-based public benefits in the last three years, a list of the programs and dates of receipt
- ☐ Form I-864A, Contract Between Sponsor and Household Member (only needed if sponsor's income is insufficient)
- ☐ Documents to accompany Form I-864A:
  - ☐ Proof that the household joint sponsors have lived with the primary sponsor for the last six months
  - ☐ Proof that the household joint sponsors are related to the primary sponsor (if they're not already listed as relations on the sponsor's tax return)
  - ☐ Copies of the household joint sponsors' tax returns for the last three years

- ☐ Proof of the household joint sponsors' employment
- ☐ Proof of ownership of household joint sponsors' assets, if any were listed
- ☐ If the household joint sponsors or their dependents have used financial need-based public benefits in the last three years, a list of the benefits programs and dates of receipt
- ☐ Other documents:
  - ☐ Original and one photocopy of your birth certificate
  - ☐ Original and one photocopy of your marriage certificate
  - ☐ If applicable, original and one photocopy of proof of termination of all previous marriages, such as a death, divorce, or annulment certificate
  - ☐ Financial documents to bring the Affidavit of Support up to date if it was prepared many months ago
  - ☐ Evidence that your marriage is bona fide
  - ☐ Original INS or USCIS notice of approved I-130 (Form I-797)
  - ☐ Your passport, valid for at least six months
  - ☐ Two color photographs of you
  - ☐ Police Certificate, if available in your country
  - ☐ Military records, if applicable
  - ☐ Court and prison records, if applicable
- ☐ Medical exam, in an unopened envelope
- ☐ Fees (currently \$335).





### Checklist for K-3 Visa Petition

- ☐ Form I-129F
- ☐ Form G-325A (one filled out by you and one by your spouse, identical to the G-325As you already filled out to accompany the Form I-130 visa petition)
- ☐ Proof that U.S. citizen already filed Form I-130 Visa Petition with USCIS Service Center (preferably, a copy of I-797 receipt notice)
- ☐ A color photo of you
- ☐ A color photo of your spouse
- ☐ Fee (currently \$165; double check at [www.uscis.gov](http://www.uscis.gov))
- ☐ Proof of U.S. citizenship of U.S. citizen spouse.



### Checklist of Forms K-3 Applicant Mails to Consulate

- ☐ Form DS-156
- ☐ Form DS-156K.





### Checklist for K-3 Appointment Packet

- ☐ Original INS or USCIS Notice of Action approving your I-129F visa petition
- ☐ A complete copy of your I-129F visa petition (the items in the checklist earlier) in case USCIS did not forward it to the consulate
- ☐ Originals of documents submitted in connection with the I-129F visa petition, such as your spouse's U.S. birth certificate and proof that any previous marriages were legally ended
- ☐ Two copies of Form DS-156, nonimmigrant visa application
- ☐ One copy of Form DS-156K, nonimmigrant fiancé visa application form
- ☐ Form I-134, Affidavit of Support, if the consulate requested it
- ☐ Documents to accompany Form I-134, including:
  - ☐ Proof of U.S. citizen's employment
  - ☐ Copy of U.S. citizen's most recent federal tax return
  - ☐ Letter from U.S. citizen's bank confirming the account
- ☐ A valid passport from your home country, good for at least six months after the interview
- ☐ Your original birth certificate plus a copy, and birth certificates for any children who will be accompanying you
- ☐ An original police clearance certificate, if this is available in your country (the instructions from the consulate will tell you)
- ☐ Your original marriage certificate
- ☐ Two photos of you, the immigrating fiancé, taken according to the consulate's instructions
- ☐ Your medical examination, in an unopened envelope
- ☐ Fingerprints (you will receive instructions from the consulate)
- ☐ Proof that your marriage is the real thing
- ☐ Any other items or forms requested by the consulate
- ☐ Application fee (currently \$100).



## Checklist for Visa Petition

- ☐ Form I-130
- ☐ Documents to accompany Form I-130:
  - ☐ Proof of the U.S. permanent resident status of your petitioning spouse
  - ☐ Your marriage certificate
  - ☐ Proof of termination of all previous marriages, yours or your spouse's, such as certificates of death, divorce, or annulment
  - ☐ One color photo of you
  - ☐ One color photo of your spouse
  - ☐ Fees: currently \$185
- ☐ Form G-325A, Biographic Information, filled out by you
- ☐ Form G-325A, Biographic Information, filled out by your spouse.



### Checklist for Forms for Mailing to the NVC

- ☐ Form DS-230 Part I
- ☐ Form OF-169 or DS-2001.





## Checklist for Appointment Packet

- ☐ Form DS 230-II
- ☐ Form I-864, Affidavit of Support (either the original, or the copy if you were required to send the original to the NVC for prior approval)
- ☐ Documents to accompany Form I-864:
  - ☐ A copy of your spouse/sponsor's federal income tax returns for the last three years, with W-2s
  - ☐ Proof of your sponsor's current employment
  - ☐ A list of assets, (the sponsor's and/or the immigrant's) if they're being used to meet the *Poverty Guidelines*' minimum
  - ☐ Proof of ownership of assets (the sponsor's and/or the immigrant's), if any were listed
  - ☐ If sponsor or sponsor's dependents have used financial need-based public benefits in the last three years, a list of the programs and dates of receipt
- ☐ Form I-864A, Contract Between Sponsor and Household Member (only needed if sponsor's income is insufficient)
- ☐ Documents to accompany Form I-864A:
  - ☐ Proof that the household joint sponsors have lived with the primary sponsor for the last six months
  - ☐ Proof that the household joint sponsors are related to the primary sponsor (if they're not already listed as relations on the sponsor's tax return)
  - ☐ Copies of the household joint sponsors' tax returns for the last three years
  - ☐ Proof of the household joint sponsors' employment
- ☐ Proof of ownership of household joint sponsors' assets, if any were listed
- ☐ If the household joint sponsors or their dependents have used financial need-based public benefits in the last three years, a list of the benefits programs and dates of receipt
- ☐ Additional documents to accompany interview packet:
  - ☐ Original and one photocopy of your birth certificate
  - ☐ Original and one photocopy of your marriage certificate
  - ☐ If applicable, original and one photocopy of proof of termination of all previous marriages
  - ☐ Financial documents to bring the Affidavit of Support up to date if it was prepared many months ago
  - ☐ Evidence that your marriage is bona fide
  - ☐ Original INS or USCIS notice of approved I-130 (Form I-797)
  - ☐ Your passport, valid for at least six months (because you have six months in which to enter the United States)
  - ☐ Two color photographs of you
  - ☐ Police Certificate, if available in your country
  - ☐ Military records, if applicable
  - ☐ Court and prison records, if applicable
  - ☐ Medical exam, in an unopened envelope
  - ☐ Fees (currently \$335).



## Checklist for Visa Petition

- ☐ Form I-130
- ☐ Documents to accompany Form I-130 (photo-copies only):
  - ☐ Your marriage certificate
  - ☐ Proof of the U.S. citizenship status of your petitioning spouse, such as a birth certificate, passport, certificate of naturalization, or Form FS-20 (Report of Birth Abroad of a United States Citizen)
  - ☐ Proof of termination of all previous marriages, such as certificates of death, divorce, or annulment
  - ☐ One color photo of you
  - ☐ One color photo of your spouse, and
  - ☐ Fees: Currently \$185 for an I-130, but double-check this at [www.uscis.gov](http://www.uscis.gov) or call 800-375-5283
- ☐ Form G-325A, Biographic Information, filled out by you
- ☐ Form G-325A, Biographic Information, filled out by your spouse.



## Checklist for Visa Petition

- ☐ Form I-130
- ☐ Documents to accompany Form I-130:
  - ☐ Proof of the U.S. permanent resident status of your petitioning spouse, such as a copy of his or her green card (front and back) or of the stamp placed in his or her passport to indicate permanent resident status
  - ☐ Your marriage certificate
  - ☐ Proof of termination of all previous marriages, yours or your spouse's, such as certificates of death, divorce, or annulment
  - ☐ One color photo of you
  - ☐ One color photo of your spouse
  - ☐ Fees: \$185 currently, but double check at [www.uscis.gov](http://www.uscis.gov)
- ☐ Form G-325A, Biographic Information, filled out by you
- ☐ Form G-325A, Biographic Information, filled out by your spouse.





## Checklist for Adjustment of Status Packet

- ☐ One of the following:
  - ☐ a copy of the INS or USCIS approval notice if you already submitted Form I-130, Petition for Alien Relative (most likely in cases where your spouse is a permanent resident), or
  - ☐ a copy of your previously filed Form I-129F and USCIS approval notice (which you'll have if you entered the United States on a fiancé visa), or
  - ☐ Form I-130 itself, with additional documents and forms (which you should have completed according to instructions in Chapter 11 or 12, whichever was applicable)
- ☐ Form(s) G-325A, filled out by you, the immigrant, and by your spouse if he or she hasn't already submitted one
- ☐ Form I-485, Application to Register Permanent Residence or Adjust Status
- ☐ Form I-485, Supplement A, for people who must pay a penalty fee in order to use Adjustment of Status as an application procedure
- ☐ Form I-693, Medical Exam (unless you entered as a fiancé, in which case your earlier medical exam is all you need and USCIS will have it on file)
- ☐ Form I-864, Affidavit of Support Under Section 213A of the Act
- ☐ Documents to accompany Form I-864:
  - ☐ A copy of your spouse or sponsor's federal income tax returns for the last three years, with W-2s
  - ☐ Proof of your sponsor's current employment
  - ☐ A list of assets (the sponsor's and/or the immigrant's), if they're being used to prove financial capacity
  - ☐ Proof of location and ownership of any listed assets (including the sponsor's and the immigrant's)
- ☐ A list of the financial need-based public benefits programs and dates of receipt, if sponsor or sponsor's dependents have used such programs within the last three years
- ☐ Form I-864A, Contract Between Sponsor and Household Member, if needed because primary sponsor lacks financial capacity
- ☐ Documents to accompany Form I-864A:
  - ☐ Proof that the household joint sponsors live with the primary sponsor
  - ☐ Proof that the household joint sponsors are related to the primary sponsor
  - ☐ Copies of the household joint sponsors' federal income tax returns for the last three years, IRS-generated copies preferred
  - ☐ Proof of the household joint sponsors' employment, such as an employer's letter confirming employment, or recent pay stubs
  - ☐ Proof of the ownership, value, and location of household joint sponsors' assets, if any were listed
- ☐ A list of the financial need-based public benefits programs and dates of receipt if the household joint sponsors or their dependents have used such programs in the last three years
- ☐ WR-702, Processing Sheet for Form I-485
- ☐ I-765, Application for Employment Authorization
- ☐ Proof that you are eligible to use the Adjustment of Status procedure
- ☐ A copy of your birth certificate, with certified translation
- ☐ Two photos of you
- ☐ Fees.



### Checklist for Applying for Advance Parole

- ☐ Form I-131
- ☐ Attachment to Application for Advance Parole
- ☐ A separate sheet of paper, in accordance with Part 7 of the application form, explaining how you qualify for Advance Parole and why your application deserves to be approved
- ☐ If you are traveling because of an emergency, evidence to prove it
- ☐ An original and one copy of the receipt notice you got when you filed your Adjustment of Status packet
- ☐ Copy of a photo ID, such as a driver's license
- ☐ Two photos of you, in accordance with Form M-378 in Appendix E
- ☐ Fee: currently \$165, but double check it at [www.uscis.gov](http://www.uscis.gov).



### Checklist for Adjustment of Status Interview

- ☐ Photo identification/passport
- ☐ Original documents for review/comparison with copies
- ☐ Updates to material in the application
- ☐ Proof that your marriage is bona fide.





## Checklist for Filing Joint Petition to Remove Conditions on Residence

Here's what you'll need to assemble for your joint petition to remove the conditions on your residency and become a permanent resident.

- ☐ Form I-751
- ☐ Required supporting documents, including:
  - ☐ A copy of your current green card (or I-551 in the language of USCIS); copy both the front and the back sides
  - ☐ Evidence of your marital relationship, and
  - ☐ Fee (currently \$200, but fees change often so double check this at [www.uscis.gov](http://www.uscis.gov), or by calling 800-375-5283); you can mail a check or money order.



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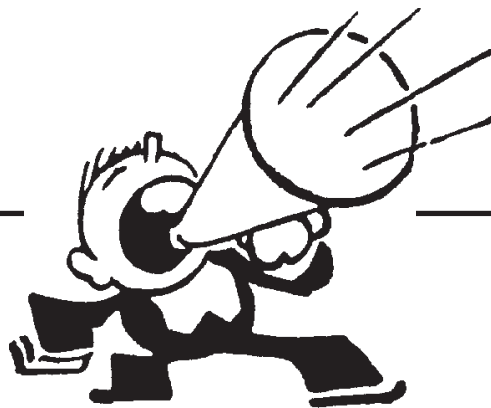
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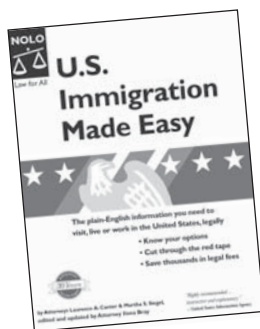
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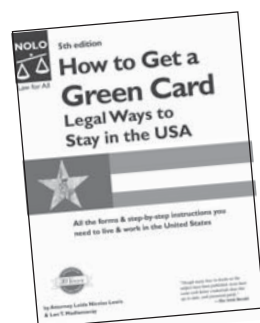


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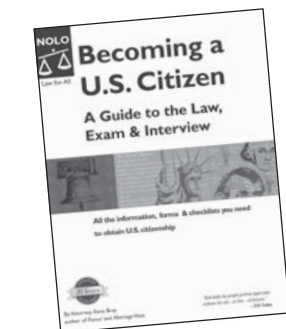
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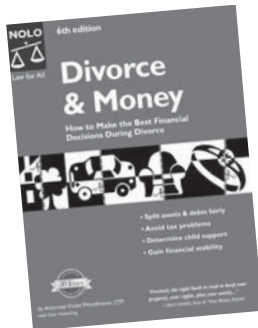


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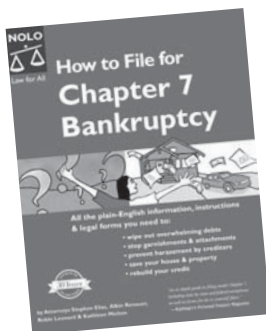
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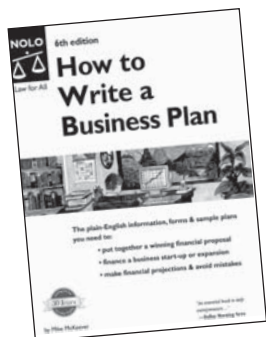


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